

LEGISLATIVE COUNCIL

Thursday, 12th December, 1991

The President took the chair at 10.30 a.m.

The President offered the Prayers.

MARINE (BOATING SAFETY-ALCOHOL AND DRUGS) BILL

Bill read a third time.

STANDING COMMITTEE ON STATE DEVELOPMENT

Report

The Hon. Dr B. P. V. PEZZUTTI: I desire to lay upon the table of the House the report of the Standing Committee on State Development entitled "Public Sector tendering and contracting in New South Wales: capital works tendering and contracting, volume B".

Ordered to be printed.

The Hon. Dr B. P. V. PEZZUTTI [10.33], by leave: In October 1988 the Premier asked the Standing Committee on State Development to inquire into and report to the Legislative Council on contracting arrangements between the private sector and government, semi-government and local authorities in New South Wales, with a view to recommending any changes to those arrangements that might advance State development and produce a more cost-effective contracting system. Since that date the committee has produced three reports and two discussion papers on aspects of tendering and contracting in New South Wales. This report, the eighth publication by the Standing Committee on State Development, deals with capital works and follows up on the committee's third report tabled in April this year and a discussion paper tabled in June 1990. The committee's inquiry has moved through three stages: first, nominating the desirable characteristics of tendering and contracting and identifying problems in the present capital works system, both within the public sector and throughout the industry; second, recommending the machinery for implementing reforms, report No. 3 tabled in April 1991; third, recommending the changes, guidelines, functions and procedures that the reform machinery should adopt in carrying out this task.

It is the third phase of the inquiry that is the focus of this report. In making its recommendations the standing committee has tried to achieve an arrangement that is consistent with both the devolution of responsibility in public management and the cost-effective standardisation of capital works planning and procedures. The committee is cognisant of the fact that some public sector construction authorities, notably the Public Works Department, have made sincere efforts to improve their performance. Nevertheless, public sector capital works expenditure through the Public Works Department via a number of inner budget sector client organisations amounts to less than one fifth of the capital works budget. At present there is no framework for implementing comprehensive reform. To recapitulate from report No. 3, it is the committee's considered opinion that the following constitute the desirable characteristics of a public

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sector capital works tendering and contracting system: openness; publication of detailed guidelines; access for those in all spheres of the construction industry; responsible management, accountability; and public scrutiny.

The committee's examination of the tendering and contracting process for public sector capital works in the context of these criteria reveals that seven important issues were not being addressed by the existing arrangements. As report No. 3 noted, these issues are: first, the lack of independent scrutiny of the capital works program; second, the lack of independent examination of the cost-effectiveness of individual capital works projects; third, the apparent lack of management skills in client organisations for the accurate identification and delineation of their needs in capital works construction; fourth, the lack of effective means for increasing the standardisation of documentation and tendering procedures to a sensible level; fifth, the lack of independent scrutiny during the assessment of tenders and awarding of contracts; sixth, the lack of independent assessment of the accountability of officers responsible for the construction of capital works and of the effectiveness of the performance of those works; and seventh, the need for an authoritative requirement that disputes arising from construction contracts be settled in all sensible instances by negotiation or alternative dispute resolution consistent with the responsibilities of the project managers.

Honourable members will recall that the committee advocated the use of alternative dispute resolution for the resolution of environmental conflicts and produced an ADR primer as part of the coastal development inquiry report tabled in September this year. This report on capital works tendering and contracting puts forward nine recommendations to the Government which will address the seven issues of concern. These recommendations build on the four recommendations in the committee's April report on capital works. The April report recommended the following: first, the establishment of a ministry of construction; second, the establishment of a capital works advisory service; third, the establishment of a commercialised public works service; and, fourth, the establishment of a joint standing committee on public works. In this way the April report dealt with the organisation aspects of capital works tendering and contracting reforms.

The Hon. Ann Symonds: It is the end of the Public Works Department. Is that what you have just described?

The Hon. Dr B. P. V. PEZZUTTI: Yes. The present report details the "system" aspects of the inquiry, including the stages of the construction process -

The Hon. Ann Symonds: What is left for the Government to dismantle?

The Hon. Dr B. P. V. PEZZUTTI: We are here to build, not to dismantle. As I was saying, the aspects detailed include the stages of the construction process, the problems involved and proposals for overcoming these problems. Nine recommendations are contained in the present report of the standing committee. Recommendation 1 deals with the establishment of a ministerial committee to consider and report to Cabinet on the future roles, functions and relationships of the State's construction agencies and all other departments and authorities building capital works, paying special attention to the possibilities of overlapping or duplicating functions and efforts. Recommendation 2 enunciates the functions of the proposed ministry of construction, paying special attention to probity. Some of the functions identified in this recommendation include developing management skills in client organisations; developing professional and technical skills in construction agencies; evaluating methods of project delivery; drafting optional clauses for standard contracts; encouraging the drafting and standard forms of contract; and co-ordinating the development of a single contract package for the majority of minor works.

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Recommendation 3 details the subjects to be addressed in guidelines issued by the proposed ministry of construction. These subjects include, for example, allowing adequate time for project planning; the use of standard general conditions of contract, the gathering and use of data on consultants, the use of Standards of Australia documents in contracts; and non-conforming tenders and post-tender communications. Recommendation 4 provides for substantial penalties for the improper use of intellectual property by employees of State and local governments relating to the tendering and contracting of public sector goods and services, including capital works. Recommendation 5 requires

that all budget costings and public announcements of State Government capital works projects and minor contracts be in terms of final or "outcome" costs. Recommendation 6 list the factors to be considered in the appointment of members to the Capital Works Advisory Council.

Recommendation 7 enunciates the functions of the Capital Works Advisory Council. These functions include, for example, the exchange of information about capital works plans, government priorities, industry conditions and capacity and other matters likely to influence the co-ordination and cost-effectiveness of tendering and contracting; advice and liaison on the subject of performance agreements, including those for consultants; and advice and assistance on possible compensation for unsuccessful tenderers for the use of their intellectual property. Recommendation 8 deals with the composition of the Joint Standing Committee on Public Works. Finally, recommendation 9 concerns the staffing and resourcing of the Joint Standing Committee on Public Works.

In conclusion, the recommendations of this report on capital works tendering and contracting and report No.3 provide the Government of New South Wales with a reform agenda for a vastly improved delivery system for public sector capital works in this State. As with any major report, a number of people must be thanked for their contributions. To the previous committee chairmen, the Hon. J. P. Hannaford and the Hon. J. H. Jobling, I express my sincere thanks for their excellent stewardship of part of the tendering and contracting inquiry. Past and present committee members also deserve thanks for the positive and constructive way in which they approached the question of capital works tendering and contracting. Significant contributions were made to the inquiry by senior officers from government departments and authorities, industry and professional associations and construction companies. My thanks must also go to the committee secretariat, with special mention and praise for the committee's consultant, Dr Brian Jinks. Once again, the value and importance of upper House standing committees to the good government of this State are demonstrated by the tabling of this comprehensive report. I commend the report to the House.

The Hon. I. M. MACDONALD [10.46], by leave: I pay tribute in particular to the extensive work by Dr Brian Jinks. This report arose from our first reference in late 1988, if I remember correctly. We have produced a number of reports relating to tendering aspects of capital works in this State. Throughout that period, Dr Brian Jinks has been driving the committee towards the conclusions that we see in this report today. The committee initially dealt with the Government Supply Office. Following the committee's report, changes were made to its structure. The first couple of discussion papers issued by the committee on this reference have received widespread critical acclaim and criticism, which we should not ignore, from those in the industry. This has been one of the longest running inquiries into tendering certainly in this State. As one of the few surviving members of the original committee, I am much relieved to put to bed this reference. I found the first year and a half on this reference extremely exciting. In the last couple of years we have been dotting the "i's" and crossing the "t's".

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One matter of major dispute in the finalising of the report was whether we should underline parts of it. That seems to be an obsession of the Hon. Dr B. P. V. Pezzutti. He must have read some of those more outlandish magazines sent out by various groups, religious in nature and usually from the United States, in which everything is either in italics or underlined. Some people feel that this is needed to emphasise something in writing. In flicking through the report, I notice that unfortunately, after a year of arguing with the Hon. Dr B. P. V. Pezzutti, he has managed to underline a few points in the report, which starts the Americanising of our style of writing reports. Fortunately, a number of us have thought to limit the use of this style. However, this report stands on its merits without one having to look to underlined sections to find out what we mean.

The report is comprehensive and its recommendations must be considered seriously. The committee was concerned that probity be the major feature of the tendering system in New South Wales. Throughout the last year or so the committee kept in reasonably close contact with the Royal Commission into Productivity in the Building Industry in New South Wales. Much of the committee's

work was in tandem with the direction of the royal commission which seeks to establish a better regime for public construction in this State. The committee believes a ministry of construction should be established to co-ordinate construction. This should not be a massive public service edifice but should be a strong team that can assess public sector construction and improve technical and capital works processes. At present a large proportion of public works development in this State is not co-ordinated. The Public Works Department simply does not cover the field; it covers only the inner budget sector. Major instrumentalities conduct their own construction processes from beginning to completion. A ministry of construction would ensure probity in public sector construction.

The committee believes a capital works advisory council should be established, bringing together broad industry, union and community involvement in capital works projects, thus ensuring improved standards and the utmost scrutiny of projects. The committee believes also that there should be a public works service which is commercialised and which can conduct public sector tendering on behalf of the Government. Finally the committee recommends the establishment of a joint standing committee on public works. Such a committee would give this Parliament a role in and responsibility for capital works programs in this State. The Public Accounts Committee touches on capital works matters but the committee believes that this issue is so important, with construction of the order of several billion dollars - about \$6 billion a year - that the Parliament should take full responsibility in this area and establish a committee to oversee the process, thus ensuring cost effectiveness of the project and probity of the tendering process.

One could speak at length on this report. I should like to thank the Hon. J. P. Hannaford and the Hon. J. H. Jobling who ably chaired the committee through parts of this inquiry. Though they were not there at the conclusion of the committee's deliberations on this issue, the broad framework was established during their respective stewardships of the committee. I look forward to further references to the committee in other areas of public sector involvement. I look forward also to the implementation of the recommendations contained in the report and the discussions it will generate in the next six months. I hope the report is taken seriously and does not meet with a knee-jerk reaction. I believe the problems raised in the building industry royal commission are addressed theoretically in the report and that most of initiatives the committee has taken tackle the problems raised. Government initiatives for public works tendering must be improved. I hope that in six months' time when a report is given to this House we will

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note that progress has been made with improvements to the public tendering process. This is an important issue that involves billions of dollars and I believe it is vital that it be taken seriously by the Government.

The Hon. R. S. L. JONES [10.55], by leave: I congratulate the Hon. J. P. Hannaford, the Hon. J. H. Jobling and the Hon. Dr B. P. V. Pezzutti for chairing the committee during the past two and a half years. I congratulate also Dr Brian Jinks in particular, as well as Michael Jerks, the director; Paul Collits, senior project officer; Heather Crichton, committee officer; and Annie Marshall, assistant committee officer. The report represents two and a half years of very thorough work that I have been very happy to be involved with. Though the composition of the committee changed during that period, deliberations on this issue continued uninterrupted. I believe that if the recommendations of the report are adopted it will lead to greater efficiency in New South Wales. Heaven knows, we are in one of the worst recessions for possibly 60 years - it is probably better described as a depression. We need to have greater efficiency. I congratulate all concerned, and I hope the Government will adopt the report.

PETITIONS

Forestry Commission

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

Cat Desexing

Petition praying that because wildlife is threatened by predatory feral cats, and because unrestricted breeding of cats results in their destruction, starvation, injury and disease, there should be compulsory desexing of all domestic cats other than those with registered breeders, received from the **Hon. R. S. L. Jones**.

AGEING AND HEALTH

Matter of Public Interest

The Hon. BERYL EVANS [10.59]: I move:

That the following important matter of public interest should be discussed forthwith:

Ageing and health - the mortality revolution.

There is a revolt in the community - a revolt that will become louder and noisier. But it will not involve radical or minority groups; rather, it will include intelligent, capable and influential elderly people. There is a common belief that as individuals live longer they become sicker. But for the majority of the elderly, this is not true. Only 5 per cent of the elderly account for the high utilisation of hospital days. If we supply effective health care services efficiently we could easily meet the health care needs of our older population over the next 40 years. However, it is essential that health care services do not assume functions that belong properly to the informal care sector. That statement was made by Mr Egall and Mr Chappell in a study conducted in America. How true it is!

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I am tired of reading articles and papers that continually assume that, as soon as people turn 60, they automatically become sick and thus become a problem and an expense to the State. Many articles hammer the point that everyone will get cancer, have a heart attack, suffer from osteoporosis, or Alzheimer's disease, develop dementia or some other frightening disease.

The Hon. Ann Symonds: Or all of them.

The Hon. BERYL EVANS: Exactly! Disease is not an inevitable consequence of ageing. The majority of older people report that they are in good health in their 60s and 70s and beyond. In New South Wales 88 per cent of people aged 60 and over are free from severe handicaps. They will be capable of enjoying their later years and they will be capable of contributing to this State. The worst part of this negative attitude to the elderly in Australia is that their abilities - abilities which have been gained by experience which enables them to do things which young people are not capable of doing - are not utilised, not listened to and, generally, not sought after. The waste of talent is tremendous not only to the State and the nation but also to the people. When I visit old people's homes and retirement villages I am distressed to see people sitting motionless, many forgotten by their families and friends. No one cares. I am determined to see something done for these people. There is no need for such things to continue to happen. There are ways to reach these people and to help them. The more we relieve these distressing situations the less it will cost the Government.

I do not believe that governments anywhere in the world know what they are up against. They do not know how they will entertain, keep and maintain the number of elderly people that there will be by the year 2000. Our policies and attitudes must change because these people are important. A group which has thought deeply about social and economic changes which are occurring in most societies has begun to think of new arrangements for informal care. At present an experiment is being conducted in Nova Scotia. Relatives are being paid up to \$4,800 per annum to care for elderly people. This is a small step towards recognising the cost to individuals of informal care. If we compare that cost with the cost of putting a person in a home or hospital, it is minute. We have a much less

sophisticated understanding of the biological and psychological aspects of ageing than we have of child development. We have concentrated heavily on every aspect of childbearing, child rearing and adolescence and we have put our aged away and thus out of mind until they become really ill. We then find that they are a problem. What do we do with them then? It is then that governments complain at the increase in the number of long-stay hospital beds. I ask the House to allow me to expand on this most important topic.

Motion agreed to.

The Hon. BERYL EVANS [11.5]: I wish to quote an interesting extract from a paper by J. Fraser Mustard entitled "Ageing and Health". Mr Mustard said:

Any approach to this subject will be strongly conditioned by the values, beliefs, and knowledge that a society has about health and ageing. Over the centuries, the broad philosophical concepts of health have ranged between an emphasis on the important role of social and economic factors and individual choices in determining health status -

He was really referring to the ecology of health. He continued:

- and a focus on the cause of disease and specific therapeutic measures for the treatment of the sick.

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He went on to say:

In the seventh century B.C. the concept of health in Greece was personified by the goddess Hygeia. She was not involved in the treatment of the sick but was the guardian of health who symbolised the belief that people could remain in good health if they lived according to reason.

How wise she was. I wonder how we lost this philosophy. Mr Mustard also said:

Most human action is inevitably driven by current belief. We act as we do because we have a belief about the consequences of our actions. Thus at any time, the dominant theory or belief about health affects how we approach health problems.

Yesterday I launched a health education program for older women which was run by the Women's Health Promotion Service in the northern Sydney area. This is a step towards a positive trend which I hope will develop all over this State. This program, which involves 10 two and a half hour sessions, provides women with the opportunity to learn more about their bodies, the effects of ageing and what they can do to look after themselves. Topics include annual health check-ups. I was delighted about that because it fits in with my cancer awareness program, which I believe is operating in the whole of this State. Topics also include pelvic floor exercises, nutrition, exercise, stress, dealing with change, sexuality and being an effective consumer of the health system. The course gives women the opportunity to meet other women and to discuss health issues from the perspective of older women. We have forgotten to ask older people what they really want and need. Above all, the course provides a positive view on ageing. The goal that has been set is to improve the health and well-being of older women. The objectives of the program are: to build on women's knowledge about their bodies, the effects of ageing and relative preventive health care measures; to increase women's knowledge of, and access to, the range of appropriate health and community services; to motivate women to take greater responsibility for their own health and to become more effective health service consumers; to enhance women's self-esteem and confidence; to strengthen women's social networks and support systems, and to affirm women's positive experience of ageing.

After the launching I spoke with a number of women aged between 70 and 80 who had completed the program. They were delighted because they found that others had experienced similar problems. The program also led them to establishing new friendships. They were excited because they were able to achieve new goals. This excitement was reflected in a changed attitude and decision to reach out to other people by encouraging them to take part in the course. They told me that they now had friends doing the course and they were talking to others to encourage them to do it. I have always believed that loneliness and a feeling of being discarded and not wanted has created many of the illnesses for the elderly that we read about - not necessarily serious illnesses; but illnesses which are psychologically induced in an unconscious attempt to gain attention and company. I was delighted to hear of the spread of these programs into other regions, and I most certainly will follow them up.

Recently I heard of a primary school situated near a retirement village. The teacher made arrangements for the children to visit the village, select an elderly resident and ask about that person's life, and then return to school and write his or her story. When the stories were completed the school invited the elderly residents to the school to hear the students' work. That has proved so successful that regular visits are now maintained. I have envisaged the possibility of elderly people being asked to spend a few hours a week at a pre-school or primary school, just to sit in the playground. If a small

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toddler has an accident or falls over and is unhappy there could not be anyone better than a grey-haired granny or grandad to dry the tears of the little one. That would not only give consolation to the little one but convey to the older person a feeling of being needed. Early in the new year I intend to go to a country town near where I live. The community nurse there has started a keep well clinic and encouraged the elderly to exercise. So successful has it become that I understand that the whole town is now walking, and the police officer is kept busy several days a week controlling a great number of people walking on the roads early of a morning.

During Cancer Awareness Week I met with staff and union delegates at the factory where the staff of 300 women comprising 30 different nationalities expressed their desire to learn English. However, there was no time available to them. I suggested they find retired elderly teachers to come to their canteen several days a week to help them. This would be another way of using talent that has been put aside, to give the elderly something worth while to do. Most important, it would give them the feeling of being needed. I well remember the terrible example of a new suburb established after World War II to house young married people. The suicide rate was enormous, simply because there had been no understanding of the need for a mixture of generations. There was no one with time and patience for unhappy people to talk to, and no one who could help with babies and the problems that newly-marrieds face. If only we could reach the point where we are not continually slotted into categories of age groups and needs groups but, rather, are looked at as a whole: a large family, as it were, each with the potential and ability to assist one another.

I hate retirement villages that are divided into sections: one for those who can still look after themselves, one for those who need care, and one for those waiting to die. People need more than that from their nation. One of the most interesting retirement villages I have visited is an Air Force retirement village on the outskirts of Perth. The people there decided to make themselves self-supporting. They bought old wartime aircraft and the retired mechanics, fitters and turners and so on would, when they wished, go to a big hangar there and work on the aircraft. They had completely rebuilt three aircraft. The ladies had a kiosk at which they provided wonderful afternoon teas for visitors. They had a bowling club, tennis courts and so on. It was fascinating to see a retirement village where people were given something to do and were needed. It gave them a new lease on life. An article in the *Sunday Telegraph* on 1st December with the heading "The aged can still have fun" caught my eye. The article claimed that by the year 2021 there will be 1,621,400 Australians over the age of 75. The article was written by Professor Tony Broe, head of geriatric medicine at Sydney University. He said:

There are plenty of misconceptions about what life is like for the elderly, and that the reality is "positive". The needs and desires of old people used to be of little interest to anyone

else, but they are no longer an invisible group in society. It seems they can't and won't be ignored any longer. Up the revolution!

Professor Broe is launching a survey aimed at those over 75 years. As he said, a surprising 70 per cent of women 75 years and over live happily alone. The article said further:

Between now and the year 2020 there will be a 500 per cent increase in the 85's and over. This is because people are healthier; it would seem that the old disabling disorders such as heart and stroke are declining, and that because of changes in diet and reduction in obesity and cigarette smoking, there is a growing decline in such conditions as chronic lung disease and osteoarthritis.

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Myths abound about this group, and the notion of the old person desperately hoping to be invited to live with his or her children is the big one. Surveys show most would rather go to an institution than move in with their families.

Another is that old people get more depressed than young people, but the opposite is the case. And this one: old people have little life satisfaction. Studies show that this is untrue.

Professor Broe referred to a survey done by the University of Chicago which dealt with other myths. They found for instance that retirement is actually associated with good health. How often have we heard the remark: "I would not retire. As soon as someone retires they die"? That is a complete and utter myth. Professor Broe commented that he is not dwelling on the negatives of ageing, and was keen to point out that even in the age group of 85-plus, most people do not have Alzheimer's disease. At last there is a real movement growing in many different areas toward the realisation that the aged are not to be forgotten, and that we must realise they share a way of life that is as equally exciting as any other period in the complete lifespan. The important things are simple: keep fit, use your brain, be involved in activities around you. To smile and be happy is a very good recipe. The recent decline in mortality rates among older persons in America and other developed countries is being called a mortality revolution. This is not happening only in Australia; it is worldwide. In conclusion I should like to quote from the Vienna International Plan of Action of the World Assembly on Ageing 1982. It stated:

The control of the lives of the ageing should not be left solely to health, social service and other caring personnel (or, might we add, scientists), since ageing people themselves usually know best what is needed and how it should be carried out.

That is the movement afoot now. Let me say finally that the way people stay young is to always present themselves with new challenges.

The Hon. Dr B. P. V. PEZZUTTI [11.18]: I am reminded of a lady I saw last Sunday evening prior to her receiving anaesthesia for cataract surgery. I noted from her birth date that she was of advancing years. When I asked how she was feeling she said: "Pretty well, but I have to tell you there are a couple of things that young fellows like you should learn. The old aphorism that only the good die young is not true. I am 93 and there is a lot more doing good and having fun in me yet. That is why I want to be able to see properly". She was well dressed and her hair was nicely done. She told me that she still keeps a vegetable garden because the produce in the vegetable shop is not what it used to be. More important, she liked to see things grow. She always had a vegetable garden and continued to keep it, dig the soil, plant, and to eat her vegetables. I thought she had the right outlook on life. She had no disability apart from requiring attention to her cataract. She did her own shopping, drove her own car and was extremely active. We should all do likewise. After all, we are all embryonic geriatrics.

The Hon. J. R. Johnson: From conception.

The Hon. Dr B. P. V. PEZZUTTI: From conception. We are all trying to become geriatrics. That is our greatest desire. If we are to find that the ageing process is not unpleasant, it is important to realise that, to look forward to it and to make plans. Some myths, which in part have been dispelled by the Hon. Beryl Evans, are that older people are a minority in society. I refer to an excellent book published this year by researcher Susie Linder-Pelz entitled *Well Over Fifty*. The author points out that older people seem to be a minority in the community. She states also that people aged 50 and

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over make up 25 per cent of the general population. Although they are not as visible, they are there in numbers. She states also that many people see older people as some sort of homogeneous group, but that is not so. They come from different occupational and ethnic backgrounds, suburbs, and lifestyles, with different financial resources at their disposal. As well they have different states of health and ill-health. Between the ages of 50 and 100 there have been many different ages, stages, problems and possibilities. One of the biggest myths is that old people are recipients, not givers of care. A finding of a major research program conducted in the 1980s at the Australian National University establishes that the elderly are mainly givers, not receivers of health care.

Also, contrary to popular belief this new book states that older Australians nowadays do not have fewer kin available to support them than earlier generations of older people. That is partly because these days family are smaller and distance is now compensated for by technology - the phone is closer than the next door house. Many elderly people acknowledge that they do not wish to live too close to their families because they do not want to be dependent. On the other hand, they do not wish to be lonely, so a balance must be struck between loneliness and dependence. Independence is very important to them. The other insidious myth is about the escalating cost of health care being due to the ageing of the population. As the life expectancy increases and people become older they tend to become ill more often. The proportion of the sick elderly is not 100 per cent. The nice old lady I saw on Sunday evening has reached the age of 93 and, although she had to have her cataract done, has not been a huge cost burden on the State. She has led a perfectly healthy life from the age of 50 through to the age of 93. She has been giving care to her family for 43 years. At 93 she seeks eye treatment so she will see better and be less of a burden.

Some concerns do exist about the ageing of the population and the escalating costs of health care. However, that is only partly due to the ageing of the population. It is also due to changing technology and higher expectations in the community. That is one of the reasons that the age of the population is rising. The stereotype of old age is that it brings illness and dependence. The facts, however, show that more elderly people have diseases and chronic conditions, but not everyone is affected. Also, having an illness or disability does not necessarily mean that they are ill or handicapped. To be somewhat infirm at the age of 93 is not the same handicap as it is to a 20-year-old. In general older people are less active than younger people but that is only partly due to poor health. It is also that people may make choices.

The Hon. J. R. Johnson: That is not universal.

The Hon. Dr B. P. V. PEZZUTTI: No. My good friend the Hon. Bob Rowland Smith is living proof that that is not true.

The Hon. R. B. Rowland Smith: What did the Hon. Dr B. P. V. Pezzutti say?

The Hon. Dr B. P. V. PEZZUTTI: He might be slightly deaf but he is more active than many men half his age and much more proficient at sports. He will be one of those people visiting Darling Harbour to use the new sporting facilities. People over the age of 60 are generally less healthy than younger people, and that is to be expected. However, the vast majority of older people are not incapacitated. It is important that we should all look forward to growing older. As one advances from 45 years of age to 85 years of age and beyond of course the percentage of people who live to those ages becomes more and more disabled. However that does not have to interfere with their enjoyment of life to the same extent as a 20-year-old with the same disability or

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incapacity may experience. Major studies show that people become disabled at different ages. Of course, hospitals are not what they used to be. Because of changing technology and the ageing population, expectations are higher than the services that can be delivered. That has always been so and probably always will be so. In the New South Wales public hospital system age is not any reason for discrimination on the basis of care that is needed. That has been a principle of the medical and nursing profession since the year dot. Merely being of an advanced age is not, and never has been, a good reason to deny those people their fair share of the access to the health dollar. Many new forms of service have been introduced to ensure that as one becomes older one does not have to become dependent but can be helped to maintain one's independence.

Senior citizens participate in many activities about which the Hon. Beryl Evans spoke. My friend the Hon. Bob Rowland Smith extended the Life Be In It program into the older age groups. They participate in exercise and community education. Many more people in their 50s and 60s are doing a new course or degree and that is wise because at the age of 50 one has 30 years or 40 more years of life. Though the life expectancy for women is 79.5 for a child born in 1988, if one reaches the age of 50 - and passing the high mortality years of childhood and adolescence where young people tend to kill themselves in car accidents and other risk-taking activities - one does not have a 100 per cent chance of reaching 79 years but has a better than even chance of getting past 79. It means that the life expectancy of any child born in 1988 can reach 79.5 years of age. However if one reaches age 50 there is a vastly better chance of reaching 95. I dare say the Hon. R. B. Rowland Smith will reach 95 comfortably and with a great deal of style, as will the Hon. Beryl Evans. People who have taken care of themselves and have been careful with their diet, exercise and how they abuse or use their brain will find that the life span of their organs will be improved. There seems to be some biological gap at the age of 100. Not many more people are reaching the age of 100 than previously as a percentage of people who reached the age of 50. Research may address that matter in the future. This Government has made major contributions because health care is not just medical or nursing care but dietitians, chiropractors, exercises, community activities and managing the elderly's many distressing ailments.

New forms of service are available, for example, the HACC program which is providing the basic level of service in all communities. One can get help from Meals on Wheels, nursing care, assistance to do some of the things that make life a misery, and in instance transport which can be made more readily available and is targeted for those who are getting on in years but still want to get about and go to different places than young people do, and at different times. The community must recognise that the needs of these people are equally as important as those of younger people. One makes choices all the way through one's life and reaps the benefit of such choices. One concern I have is that though life expectancy for most people in the community in 1988 was 73 years for men and 79 for women, for one group in the community, that is not so. It is of alarm and concern to honourable members that in 1988, according to statistics taken from the second biennial report of the Australian Institute of Health, the life expectancy of male Aborigines born in Australia was between 53 and 54 years and for Aboriginal females 65 years. That should be contrasted with the statistics for all males in Australia of 73 years and females of 79 years. There is a large gap between life expectancy for Aborigines and for other ethnic groups within the Australian community. That can be related partly to the infant mortality rate which is higher among Aborigines than among the rest of the population. That is of great concern to most health planners and anyone interested in the advantages of becoming a "very happy geriatric". Life expectancies have increased over time. In 1901 life expectancy for males was 55 years and has now has increased to 73.1 years. For a female born in 1901 it has increased from 58.8 to

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79.5 years. I dare say that a much higher percentage of people have reached the age of 60 and can look forward to a great and successful time.

The DEPUTY-PRESIDENT (The Hon. Dr Marlene Goldsmith): Order! The honourable member has exhausted his time for speaking.

The Hon. R. B. ROWLAND SMITH [11.33]: I have great pleasure in supporting this worthy motion moved by the Hon. Beryl Evans. This morning I happened to ring my mother, who is 90 years of age. I informed her that we would be debating this motion, and she said "Give them heaps, dear".

The Hon. R. T. M. Bull: What did she mean?

The Hon. R. B. ROWLAND SMITH: I shall explain that a little more fully. Unfortunately, she does not enjoy good sight and is living in a nursing home. She has a very good and active brain. When she went to the nursing home some years ago I remember visiting her and seeing unfortunate people sitting in wheelchairs, waiting to die. I thought to myself that I must do something about this. When I took over responsibility for the ministry of sport, recreation and racing we established a unit to examine problems pertaining to the young, the disadvantaged, the disabled and particularly the aged. My good friend Dr Pezzutti referred to me as "ageing". We are all ageing. Someone once said "You are only as old as the woman you feel". I am not sure who it was.

The Hon. Delcia Kite: It was the honourable member's father, and the honourable member takes after him.

The Hon. R. B. ROWLAND SMITH: I am pleased the Hon. Delcia Kite is here today. She probably will take part in the debate and we can discuss more fully the importance of this measure. And it is important. I was being a little facetious in some of the things I said. People tend to forget that everyone is ageing, irrespective of how old they are. We will all get older. Someone once remarked to me "You are getting pretty old" and I replied, "Yes, but you have to get there yet". When I took over responsibility for that ministry in 1988 there was a specific populations unit that developed a plan to address the recreational needs of older people. Specific initiatives for older people are being tailored to allow them greater access to mainstream programs. The department has taken responsibility for co-ordinating the successful walking for pleasure programs. The department will continue to develop activities for older adults, including the very popular senior citizens camping holidays program. In 1989 older people accounted for 10,000 camper days, for which the expenditure was \$442,000. The department has provided an exciting program for older people during Senior Citizens Week. About \$8,000 was allocated in 1989-90 and 1990-91 for that purpose.

Some of the mainstream programs and services that benefit older people include adult recreation skills development program, the capital assistance scheme, sport and recreation centres program, and swimsafe programs. Allocations to specific target groups are now to be monitored. There has been close liaison between the Department of Health and the Department of Sport and Recreation on preventative health and physical activity. Joint programs include the gentle exercise program, walking for pleasure, activities for pleasure and healthy lifestyle vacations. Another initiative taken by the Government was the fitness week during which older people were encouraged to become involved. There was a fitness walk of about 10 kilometres. I was staggered to see the number of older people vis-a-vis young people involved. I was in the walk and going for dear life when

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a short fellow passed me and said "Come on, young fella, get moving". So I got moving and said to him "How old are you?" He told me that he was 78. One of the most important things we were able to undertake in conjunction with the city of Wagga Wagga this year was the Australian veterans games. About 1,300 people participated in about 25 different sports. The oldest competitor was 85; he was a clay pigeon shooter. I was delighted to be involved in those games. That scheme will continue to encourage older people to become involved. I quote briefly from a paper published by the department and entitled "Leisure":

Leisure needs of older people are catered for, with varying degrees of success, by a range of government, commercial, private and voluntary agencies. As in the area of education, a major proportion of leisure services are (so called) mainstream services, designed for and delivered in English to the larger community, rather than specifically to older people. For example, older people form part of the large audience for radio and television programs, and part of the

clientele for the "Walking for Pleasure" and "Aquafitness" classes run by the Department of Health and the Department of Sport, Recreation and Racing. The current state of provision of leisure services for older people in New South Wales is outlined below. It should be noted again that there is considerable overlap between the area leisure service provision and the area of education.

The New South Wales Department of Sport, Recreation and Racing has a charter to provide recreation services to the total community. Within practical limitations and according to the need, the Department aims to make services equally accessible to all sections of the community. The thrust of the Department's initiatives towards older people is to tailor specific programs to teach people skills and provide opportunities which will give them greater access to mainstream programs. The Department's major provision for older people is in the following program areas:

- adult recreation skills development;
- open space and parkland development;
- access to and comfort within sporting and racing arenas; and
- use of the Department's 12 residential Sport and Recreation Centres.

The Department provides specific services for older adults through Senior Citizens Camping Holidays (13,000 older persons days per year). Walking for Pleasure, Activities for Pleasure and Aquafitness are operated in a coordinated effort with the Department of Health.

One thing that has impressed itself upon me is the nature of those participating in the annual City to Surf race, in which about 30,000 or 40,000 people competed this year. That event started in 1971. When I went through my records last night I found that the oldest man in the race was Tom Millard, who has won in the oldest man category. He won the first event in 1971 when he was 68 years of age. He quit nine years later at the age of 77. Bill Empey ran in 1981 at the age of 85. Irene Walters ran at the age of 68 which shows that people of all ages, including the aged, can mix with the young ones. In 1985 Agnes Turner was the oldest lady in the race. She ran it in 115 minutes. I challenge anybody in this place to run the 14 kilometres in that time.

The Hon. Dr B. P. V. Pezzutti: The honourable member could do it. I would put money on it.

The Hon. R. B. ROWLAND SMITH: We will enter the Hon. Dr B. P. V. Pezzutti in the race this coming year. I am so pleased to be speaking on this motion because fitness is important for people of all ages but particularly so for the aged. My mother is at Edina nursing home, where once a week a woman organises exercises

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for all - whether in a wheelchair, standing or whatever. I have encouraged the people at Edina to become involved in walking. In the five or six years since she first went in to that nursing home, it may be my imagination but I believe I have seen changes and I know they are happier. We all have to go some time, but it is important that people not only feel fit but also have a mind which is good and active. We must do a lot more for these people, because one day we all have to go to that place up top.

The Hon. ELISABETH KIRKBY [11.42]: It gives me very great pleasure to support the matter of public interest moved by the Hon. Beryl Evans, namely "Ageing and Health - The Mortality Revolution". I was informed yesterday that we would be given the opportunity to discuss this matter today. That is very useful because only 48 hours earlier I had been given a publication prepared by Neville Hicks from the Department of Community Medicine at the University of Adelaide entitled *Ageing, well-being and research*. This contains a great number of articles about various aspects of ageing and letters from older people. One letter is written by Mr Bob Wallace of Adelaide. I do not believe that he is all that old because the letter starts by saying:

I was born in July, 1930.

I do not consider him to be old. At the end of his letter he says:

Our social institutions should be designed to assist people to remain young. We will better achieve that when the community forgets about the old.

I know that that seems to be a fairly contradictory statement, but I know exactly what he means. Many people still categorise older people on the basis of their chronological age. One article headed "People are buses, not trams" says:

Historians should stamp that slogan on every demographer's or public health expert's brow. Estimates of the life expectancy of Western populations have been increased regularly for most of the century and have, nearly as regularly, been wrong. Almost every time that a particular lifespan has been predicted for a given cohort, the cohort has exceeded the span by the time the predicted age is reached. Less regularly, but regularly enough to raise a caution, predictions about health or disease based on the experience of one aging cohort have been inaccurate when the succeeding cohort has aged to the same point.

There is also a very interesting table in this article reminding us that people who were aged 75 in 1947 were born in 1872 and survived their childhood before there was a diphtheria anti-toxin. Many people born in that year died of diphtheria in childhood. Those who were 75 in 1966 were born in 1891, which was before there was a clean milk supply. Many people born in that year died as infants. Those born in 1906, and who were 75 in 1981, were born before antibiotics. Those of my generation, born in 1921 and who will be 75 in 1996, were born before tuberculosis screening and polio vaccination existed. In one article in this publication, again by a person from Adelaide, the author talks of when she was a child. She would walk down the street and practically every garden would have a tuberculosis tent in it because in those days tuberculosis was rife. There was no cure for it then. In fact it was the most feared disease. I can recall in my teens being aware of a great many people who suffered from tuberculosis and sometimes died of it at an early age. It is very unusual now, particularly in western society, to meet people who have contracted tuberculosis.

As has been pointed out by the Hon. Dr B. P. V. Pezzutti, in 1901 infectious communicable diseases were frequently the cause of death, even in old age. Now they are of minor significance for ageing Australians. Now we have chronic degenerative diseases, many of which appear by the age of 65, including heart and vascular problems, blood pressure problems, stroke, chronic lung disease and diabetes. In all of these

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diseases, there is a chance of preventing disability and delaying death by changing the organisation of work to reduce stress or by better nutrition and changing patterns of exercise. Other chronic degenerative diseases which tend to appear after the age of 65 include thinning and brittleness of bones, osteoarthritis and hip fractures, but each of these may respond to exercise - as has been pointed out by the Hon. R. B. Rowland Smith - or better nutrition. As far as women are concerned, in the case of bone decay hormone replacement therapy is a useful form of secondary prevention. It was previously thought that anxiety and depression might also be regarded as chronic degenerative diseases but they too can be prevented through programs mentioned a few moments ago and through older people now having a totally different attitude to their age. They are beginning to insist that the rest of the community change its thought patterns about people in their old age.

It is interesting that in the 1970s early retirement, by which I mean retirement between the ages of 55 and 65, became widespread. There was no argument about this. The move to early retirement appears to have been either a reaction to growing dissatisfaction with the nature of work or economically driven. Ironically the move to early retirement was followed very quickly by the argument based on a conventional category - non-discrimination - that age as a natural category should not be the basis for denying people the ability to work. That is important for legislators to remember. The

sooner we can have full anti-discrimination legislation introduced to this Parliament to make it possible for those who wish to continue to work, the better. Those with the enthusiasm to continue working should not be denied that opportunity because of some artificial age barrier. How can we promote well-being? I believe the answer is found by asking a number of questions. We must imagine good older lives, and we will have to force that idea on to the community because many people live in a time warp and believe that older people inevitably become senile.

We must answer questions such as, what determines the quality of life for older people? What is the impact of health promotion and rehabilitation programs on the ageing process and on the well-being of older people? Older people must participate in decision-making and research should be carried out into the relationship between ageing, well-being and vitality. We must know how the social and physical environments promote or inhibit the capacity for independence in older people. These are all tasks that we, as the older members of this House, can be involved in. I believe that what was done by the administration of sport, recreation and racing under the Hon. R. B. Rowland Smith was a vital step in the right direction. We need more programs of that kind. Though younger persons will discuss how older people should live, how they can become more independent and not be categorised as some members of the community seem determined to categorise them, older people must participate and make the decisions. We cannot have these decisions made for us by our children, however much we love them. I support the motion.

The Hon. Dr MARLENE GOLDSMITH [11.51]: Last month a sad thing happened in Gunnedah. Mr Cyril Smithurst, a highly respected pharmacist, retired. He has been actively involved in many community organisations and is a most important member of the community. Pharmacists retire every day, especially under the system imposed on them by the Federal Labor Government. There is nothing remarkable in such an event, one might think. But in the case of Mr Smithurst there is, for he is a great role model for changing community attitudes towards becoming older. He is in his 90s. How far he is into his 90s is not entirely clear because he is a modest, reticent and private man. Indeed, he may be quite cross with me for placing his achievement on the public record in this way, but this is an opportunity I could not resist, for Mr Smithurst is more than a role model to us all. He is for Gunnedah an institution.

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Mr Smithurst was my family pharmacist for many years until we moved from Gunnedah. He remained my parents' pharmacist until two weeks ago upon his retirement. With its antique wooden cabinets, Mr Smithurst's pharmacy has been a very special place for as long as most people in Gunnedah can remember. I find it very difficult to imagine that town without that pharmacy or its owner. I am delighted to have this opportunity to thank Mr Smithurst and to thank the increasing number of people who lead active, productive, involved lives far past any arbitrary age of retirement defined back in the days when health and life expectancy were far less than they are today.

I am very proud to be a member of the Government that is moving to end such things as mandatory retirement and the lack of opportunities for older people to contribute to the community. In May an announcement was made that up to 1,000 additional places in New South Wales TAFE will be reserved for older workers under a \$6.5 million Government plan to expand the highly successful mature workers program. The Government has introduced an aged persons home update loan, a scheme to allow age pensioners to finance maintenance and upgrading works on their properties. The Government has a number of schemes in place to assist older people to remain active in their communities, to remain living in their homes, working and contributing to the community. I am very proud to be a member of the Government that is providing these opportunities to people and is moving to make such choices genuinely available.

Mr Smithurst is not the only older role model I could mention. Some years ago my husband and I were holidaying on Norfolk Island and we went to an area on a headland that had a sign warning of danger beyond the sign. I remember being obedient and staying where the sign was. My husband went past the sign in order to take a photograph. Where I was standing, and down a very

precipitous cliff face came the back of someone in a mackintosh. I moved away from the falling rocks as this person came down the cliff face and I wondered who would be so foolhardy as to climb in such a dangerous and difficult area. When the person arrived at the foot of the cliff I found it to be a woman in her 70s. She was having a wonderful holiday and could not resist the opportunity to explore the top of the cliff and had climbed there to have a look. It transpired that she had not had the opportunity of an education in her youth and she was very proud that that year she had completed her secondary schooling and was off to university the following year. That is the type of role model we need. Not only are those types of achievements possible for older people, but increasingly we come to expect it of them, and that is as it should be.

In this debate I should like to mention attitudes to the ageing of women. Recently the American author Naomi Wolff published a book called *The Beauty Myth*. I recommend it as important reading for anyone concerned about fairness and justice in society for all members of the community. I would not recommend it only to my female colleagues; I recommend it to my male colleagues as well. In the book Naomi Wolff speaks of a number of things. In particular she speaks of the increasing emphasis on youth in our society, on the notion that everyone is expected to be young and to look young. She writes of facelifts and other forms of surgery that are cruel and painful, but totally unnecessary in a medical sense, but that women are increasingly being driven to have. Indeed, some men are driven to have these operations by the demands of a society that emphasises youth at the expense of experience, maturity and those traditions that are highly respected in many traditional, non-western cultures. I recommend a careful reading of that book to anyone interested in this issue because it is most important for society.

The DEPUTY-PRESIDENT (The Hon. R. T. M. Bull): Order! Pursuant to sessional orders, business is interrupted for the taking of questions.

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QUESTIONS WITHOUT NOTICE

POLICE LEGAL SERVICES BRANCH

The Hon. B. H. VAUGHAN: I direct my question without notice to the Minister for Police and Emergency Services and Vice-President of the Executive Council. Is the legal services branch of the Police Service based in the Avery Building about to be substantially civilianised? What does the Minister estimate the additional cost involved will be in replacing the police component of that branch which, as I remember, was recently praised by Mr Justice Lee in the Blackburn royal commission? If this decision is to be taken by the Minister, how is it justifiable?

The Hon. E. P. PICKERING: At present a general review is being conducted of the central police administrative structure, down to but not including regional command level and covering some of the special units. From memory the police-citizens youth clubs came under scrutiny. That review is being conducted by the Office of Public Management. As yet I have not been burdened with the details of that report although I believe it is not far off. However, recently I did the unpardonable thing of stopping the lift in the Avery Building, from memory, on the 13th floor, rather than the 20th floor, to look at the police library. I wanted to see what facilities were available for a police Minister who had a few minutes to spare. While I was examining the library it came to my attention that the unit referred to by the Deputy Leader of the Opposition - the legal services branch - is on the same floor. Over a cup of tea I was burdened with some of the changes that are proposed for the legal services branch. So to that extent I have some inkling of those changes. The changes are being oversights by the Chairman of the Police Board, Judge Thorley. Everyone would recognise that Judge Thorley has a modicum of expertise in these areas and I know he has taken a personal interest in this. I think I am correct in saying that when I took over the administration of police in New South Wales, the legal services branch was not employing one lawyer. I understand that has changed.

The Hon. M. R. Egan: It is not a legal profession; it is a legal service.

The Hon. E. P. PICKERING: I presume people seek legal advice from this organisation. The review is in hand. In the not too distant future I will be getting a report. When I get that report and I make some final decisions about it I guess I will be in a position to provide the Deputy Leader of the Opposition with detailed answers. But I must say that the whole idea of the Office of Public Management review is to provide not only for a more effective organisation but also, one would have hoped, a more cost-effective organisation.

POLICE SERVICE EXTERNAL INQUIRIES

The Hon. R. D. DYER: Is the Minister for Police and Emergency Services and Vice-President of the Executive Council aware of comments made in the latest annual report of the New South Wales Police Board questioning the cost and effectiveness of royal commission inquiries and other inquiries into the Police Service? Is the Minister aware of the board's statement that there is a danger that the external inquirer has the opportunity for only a myopic insight? Does the Minister agree with these criticisms, or does he believe that various external inquiries, such as the royal commission into the Blackburn matter or the select committee investigating police promotions, have performed a valuable role?

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The Hon. E. P. PICKERING: I agree with the Hon. R. D. Dyer that, by and large, an external examination of any department is productive. There is no doubt in my mind that the select committee I appointed to look at the question of police promotion was productive. In the past members of the Police Board of the day would look me in the eye and tell me that there was no need for change under any circumstances, but only last week I was presented with a most comprehensive document suggesting change. That, in itself, is a welcome advance. It is obvious that the inquiry into matters such as the Brennan shooting and so on again brought about changes within the Police Service. The recent creation of the public protection unit is another welcome advance.

The Hon. R. D. Dyer: The Minister is having trouble managing.

The Hon. E. P. PICKERING: It is probably due to the long hours I have spent in this place over the past few weeks. The legal costs of royal commissions are nothing less than outlandish and outrageous. Though I am not a lawyer I must say -

The Hon. R. D. Dyer: You would not say that about the select committee.

The Hon. E. P. PICKERING: I was just about to say that I got some extremely cost-effective advice through the select committee process. The fact that it cost a lot less than a royal commission does not mean that it was not as effective; I think it was. As soon as we get into the royal commission mode the costs are nothing less than outlandish. It is about time there was a mechanism -

The Hon. J. R. Johnson: It is absolutely scandalous.

The Hon. E. P. PICKERING: It is scandalous; there is no other way to describe it. It is about time that governments faced up to those problems and did something sensible to resolve them. I do not have a clue how to resolve those problems but I do know that the costs involved are nothing less than a public scandal.

POLICE TRIBUNAL DARREN BRENNAN INQUIRY

The Hon. P. F. O'GRADY: Will the Minister for Police and Emergency Services and Vice-President of the Executive Council give the House a progress report on the Police Tribunal inquiry into the arrest of Darren Brennan after he was shot by police in 1990?

The Hon. E. P. PICKERING: The matter the Hon. P. F. O'Grady is referring to is what is called the Wakefield matter. The honourable member would appreciate that, to the best of my knowledge, I advised the House that that matter had been taken over by the Independent Commission Against Corruption inquiry into the use of police informants. Clearly, the matter falls within that category. Upon a recommendation the Police Tribunal inquiry was handed to the Independent Commission Against Corruption. I am fairly confident that I announced that to the House some time ago. So far as I am aware, that matter is being pursued by the Independent Commission Against Corruption.

HOSPITAL PATIENTS AIDS TESTING

The Hon. ELAINE NILE: My question without notice is directed to the Minister for Health and Community Services. Is it a fact that, as a means of combating the spread of the HIV-AIDS virus, certain hospitals have been conducting HIV-AIDS blood testing of about 10,000 babies and a large number of adult patients? Is it a fact that at least three

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of the patients were found to be HIV-AIDS positive and were they notified? Will the Government introduce compulsory HIV-AIDS blood testing of all hospital patients and newly born babies and ensure that the results are confidential but are made available, with counselling, to any patients or parents of babies found to be HIV-AIDS positive?

The Hon. J. P. HANNAFORD: The matter to which the honourable member has referred has been the subject of newspaper reports over the past few days. Research is being undertaken in relation to the incidence of the HIV-AIDS virus among a number of groups of patients. One group involved newly born babies in hospitals within the metropolitan area and another group involved admissions into Royal Prince Alfred Hospital. I examined these two issues after I saw them reported in newspapers. I was concerned about the approach taken by the Privacy Committee. Under the Commonwealth Privacy Act the National Health and Medical Research Council ethics committee has established protocols that conform with that Act with regard to the way in which the research has been conducted. I am told that ethics committees of New South Wales hospitals engaged in research have developed ethics protocols which conform to those adopted by the National Health and Medical Research Council. I also considered composition of the panels, as controversy had emanated from Canberra about the inclusion of non-medical people on panels. I ascertained that there was only one medical researcher on the panels, which had representatives of religious groups and other organisations.

I am informed that the research was conducted in accordance with the established ethics principles and protocols. Notwithstanding that, I have asked my department to look again at the role of the ethics committees and how ethics are established. I am concerned that there is a difference of view between the Privacy Committee and the protocols adopted. I shall seek to make certain that representatives of the National Health and Medical Research Council and the various ethics committees consult with the Privacy Committee and advise me. With regard to the notification of people with HIV, I am advised that mechanisms adopted under the protocols ensure there are clear barriers to prevent the identification of the person from whom a sample is taken and the linking of that person with the subsequent research undertaken. Those barriers have been implemented strictly for the purpose of maintaining privacy. Therefore I commend to all members of the community that if they fall within groups of people regarded to be potentially at risk they should undertake a test. I am assured by the ethics committees that with this type of research there must be an assurance that the researchers do not know from whom the sample is taken. Patients who fall within a category of people at risk, and indeed any member of the community who is concerned, should be tested.

SCHOOL SECURITY

The Hon. Dr MARLENE GOLDSMITH: My question without notice is directed to the Minister for School Education and Youth Affairs. Will the Minister inform the House what is being done to make our schools secure during the school holidays?

The Hon. VIRGINIA CHADWICK: Arson and vandalism are serious crimes affecting the entire community because of the disruption and cost, but particularly in the education sphere because of disruption to students' schooling and the loss of material which, in many cases, is the result of many years' preparation by teachers. I cannot understand the motivation or reasoning of people who maliciously and deliberately damage school property, but unfortunately it is a fact of life. I am pleased to inform the House that much has been done and is being done to ensure the safety and security of our schools. The Government has made available \$40 million over four years to install an

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electronic surveillance system in metropolitan schools and other schools considered at risk. Approximately 100 schools in the metropolitan area and an additional 152 country schools are protected by the system. I was astounded to hear on radio this morning Mr Aquilina's comment that not enough was being done to secure our schools. It is timely to remind him that the electronic surveillance system was commenced in 1987-88. Under the Greiner Government the program has been extended throughout the State. Furthermore, in 1986-87 surveillance was almost non-existent in schools, and a record 111 fires cost the State \$5 million. In 1987-88 there were 88 fires at a massive cost of \$10.2 million. Since additional schools have been connected to the system the cost to the State has decreased considerably. In 1990-91 arson in schools cost the State \$4.2 million. That is a large amount, to which must be added the human cost and the loss of materials. However, the cost of arson has been more than halved.

The decrease in the cost to the State is directly attributable to faster police response times and earlier screening because of the electronic surveillance system. Furthermore, there has been an increase in the number of persons apprehended for vandalism and arson. More than 1,200 people have been apprehended since electronic surveillance began. For that I thank not only our own security officers but also the Police Service, who work closely with us. To suggest therefore that not enough is being done is not only wrong but downright ludicrous. I am well aware of the dire need to do our utmost to protect our schools. During the holidays special security measures will be in place, such as additional patrols, as well as the electronic surveillance system. However, there is a role for the general community to play. People who live near a school should be vigilant in reporting suspicious activity. Though I presume most people would act from a sense of civic pride and responsibility, I add that rewards of up to \$25,000 are offered for information leading to the apprehension of vandals and arsonists who attack schools. Though obviously I am not in a position to give any guarantee that arson on one level or another will not occur, I am confident that much is being done to protect our schools. I totally reject the erroneous and mischievous allegations of Mr Aquilina.

BEACH POLLUTION

The Hon. M. R. EGAN: My question without notice is directed to the Minister for Health and Community Services, representing the Minister for Housing. It refers to a question I asked him on Tuesday concerning serious pollution on Cronulla's beaches. Is the Minister yet in a position to advise the House of the cause of that serious pollution and what measures the Government has taken to ensure that swimming at Cronulla's four beaches is safe over the coming holiday period?

The Hon. J. P. HANNAFORD: I had intended to give a deferred answer to that question. I am informed that the decision to close beaches is made by local council officers as part of the Beachwatch network. With regard to recent events, Beachwatch confirmed the presence of algal bloom at Cronulla which produces an oily film, discolouration and odours consistent with the reported pollution. In the Cronulla area Beachwatch also confirmed that any recent sewage pollution is more likely to have come from local boats than the ocean outfalls. The ocean outfalls continue to produce excellent results. There have been no elevated bacteria counts reported in association with recent events and the Water Board expects the outfalls to continue to produce excellent results.

YOUTH REFUGE FUNDING

The Hon. ELISABETH KIRKBY: My question without notice is directed to the Minister for Health and Community Services. It refers again to the closing of youth and
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other refuges. In answering previous questions the Minister informed the House that he has entered into negotiations with certain refuges throughout the State in order to help them better adjust their budget and therefore prevent their closure. Will the Minister inform the House if negotiations have been entered into with the Woy Woy Peninsula Neighbourhood service for its refuge there and Taldumande Youth Refuge at Neutral Bay? If they have not opened negotiations, can these negotiations be now opened?

The Hon. J. P. HANNAFORD: On a number of occasions I have stated that where refuges are experiencing difficulties we will enter into negotiations with them. The House may recall the negotiations involved in the young people's refuge which had some prominence in this House. As a consequence of the position I took, \$37,000 has now been allocated to that youth refuge which will allow it to overcome the backlog of funding. That refuge is considering reorganisation of its management program. I have earlier referred to the Yeenas Refuge at Gosford, which had some prominence at the time. Following discussions, \$12,000 has been allocated to that refuge which is now reorganising its programs. It is coincidental that the case of two other refuges at Gosford has arisen in the past 24 hours. Yesterday a prominent member of the Labor Party, speaking on radio 2BL, complained that these two refuges would be closed as a result of lack of funding. Obviously communication between the board of the refuges and the prominent spokesperson was deficient, because last Friday and on Monday of this week discussions took place between the board and the department. Yesterday afternoon it was confirmed that the reorganisation of those refuges would be considered and funds will be provided to assist them to implement reorganisation.

The Hon. Ann Symonds: What does the Minister mean by reorganisation?

The Hon. J. P. HANNAFORD: Reorganisation is a matter for those boards because they are independent organisations; they are not owned by or employees of Government.

The Hon. Ann Symonds: Some of them close at certain hours, do they not?

The Hon. J. P. HANNAFORD: It is interesting that the Hon. Ann Symonds should interrupt, because she was a very prominent supporter of Frank Walker who raised the question of why New South Wales was not providing funding for this particular refuge in order to be able to expand its operations. Some months ago, because these are joint State and federally funded programs, I wrote to the Hon. Peter Staples supporting the allocation of additional funds for that refuge. We have not received a response. Peter Staples has been saying he will not allocate further money until he works out what will be the implications of the award for the allocation of funds to New South Wales. It is interesting that he has not made the funds available, but is waiting. I only learned last night - and I shall check on this matter today - that while we are waiting for funds, the Labor Party in Canberra has been able to reach agreement with the Labor Party in Victoria and I am told has allocated that State a one-off \$10 million, but is not prepared to allocate the funds to New South Wales. Perhaps the Opposition's mate, Staples, has been preoccupied with internecine problems that the Labor Party has in Canberra.

This morning I spoke on the radio with Janet Ryan, who is the co-ordinator of the Youth Accommodation Association and whom I have met previously. She knows my position, that not a single refuge in this State needs to close. I will make funds available to those organisations, but there is a requirement because public funds are involved. As Janet Ryan acknowledged this morning on radio, the managers of the vast majority of these refuges are volunteers who donate their time to provide support to people in the
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community. We will provide staff from our organisation, as we are doing, to assist those volunteers to understand the award and work under it. We know the union has misled a number of these

organisations as to the way the award should be applied. We will assist the staff of the refuges on how to understand the award and how to work under it. As each refuge identifies that it has a continuing need for funding, so as to continue to work within the joint State and federally approved budgets, then those funds will be given. I give an assurance that people who require service from those refuges will gain that service, and if they do not, it will only be because those refuges made that decision.

SEXUAL ASSAULTS ON INTELLECTUALLY DISABLED PERSONS

The Hon. J. F. RYAN: My question without notice is directed to the Minister for School Education and Youth Affairs. Will the Minister inform the House about any Government initiatives to address the serious matter of sexual assaults against people with intellectual disabilities?

The Hon. VIRGINIA CHADWICK: I advise the Hon. J. F. Ryan and the House that this morning I launched a set of interdepartmental procedures to assist and better co-ordinate the responses, support and follow up of reports of a person with an intellectual disability having been sexually assaulted. This is a very serious and vexed area. It is worth noting that in 1989 5.9 per cent - almost 6 per cent - of all people referred to sexual assault services in New South Wales had a developmental disability. In New South Wales less than 3.5 per cent of the population are people with developmental disability. When one considers the high incidence of non-reporting of sexual assault that it is believed occurs in New South Wales and elsewhere this is a very serious matter indeed. The production of interdepartmental procedures for dealing with this issue will greatly assist people in this area. In addition to the interdepartmental procedures, the New South Wales Sexual Assault Committee chaired by the head of the Women's Co-ordination Unit, Jane Woodruff, has worked hard and co-operatively with non government organisations and government departments to develop procedures. The committee has produced two pamphlets, "Taking Care of Me - About Sexual Assault" and "Taking Care of You - Sexual Assault information for workers with people who have an intellectual disability". I understand that the pamphlets will be widely distributed in the community through various service providers, residential services and vocational facilities.

The pamphlets that have been produced are clear and in simple language, given the group we are trying to assist. They provide essential information about proper assistance and where to get help to cope with this issue. The interdepartmental procedures will ensure that complaints of sexual assaults of people with an intellectual disability are referred to the correct authorities. The procedures will be made available to workers in various departments so that a co-ordinated and sensitive response can be achieved to the problem. All service providers will acknowledge the need to adopt these procedures to ensure that complaints of sexual assault are investigated by the appropriate authority and that all people involved are treated with justice, equity and in line with the statement of principle that the Premier released back in 1989 to cover all services for people with an intellectual disability. This project which the New South Wales sexual assault committee began in 1989 has been the subject of long consultation and detailed negotiations between various government departments. Not only do I congratulate the New South Wales sexual assault committee, but it is appropriate to note that as the committee has come to the end of its three year term, I have confirmed that I am renewing the committee's terms of reference. It will continue for another three years.

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FRENCHS FOREST AND TERREY HILLS BEAT POLICE

The Hon. DOROTHY ISAKSEN: I direct my question without notice to the Minister for Police and Emergency Services and Vice-President of the Executive Council. If the New South Wales police force is between 200 and 300 overstrength, as reported in the *Manly Daily* on 30th November, why is the Minister finding it difficult to fulfil a promise to the member for Davidson to provide six constables and one sergeant to form a seven-person beat police patrol in the Frenchs Forest and Terrey Hills area in 1992?

The Hon. E. P. PICKERING: I am glad the honourable member has asked this question, for it allows me to clarify the matter.

The Hon. P. F. O'Grady: The Minister is not going to get into operations mode?

The Hon. E. P. PICKERING: No, quite the opposite. The Government introduced the initiative of beat police in New South Wales. That was not easy to accomplish in the sense that inevitably police feel that if they are short of human resources and one imposes a new requirement to find 1,000 officers to be applied exclusively to beat patrols, it requires a significant management effort. It is with some pleasure that I report to the House that the promise to put 1,000 police officers on the beat prior to the end of the Government's first term was achieved. Just before the last elections I went to my old home town of Charlestown to launch the one-thousandth beat patrol officer. When I asked the department to implement that policy I gave a firm instruction that the beats should be allocated within New South Wales on the basis of putting police where the crime is. The former Minister, the Hon. Peter Anderson, would have told the department that he would appoint the beat patrol officers, and he would have done it on the basis of political expediency. When his departmental officers remonstrated with him he would say things such as, "Well, it is a simple fact that Labor electorates are crime-ridden and that is why the police will go there". I did not do that. I told the department that I wanted the beats put where the crime was. That is why, for example, the very first group of police - 25 from memory - were allocated to the Kings Cross patrol. I should add that they have had a spectacular influence on that patrol. The people at Kings Cross are absolutely delighted with the way this Government faced up to that difficult patrol and produced a new quality of life for citizens of that area.

I am able to report that though the department carefully planned for a 1,000 beat patrol, during the course of the implementation of that program 300 beats were established by patrol commanders of their own initiative. At the end of the program for the introduction of 1,000 beat patrols, 700 of them had been achieved through the official program and 300 through the initiative of individual patrol commanders who were able to form beats from existing resources within their patrols. I was gratified that patrol commanders had taken that initiative. So the promise was delivered. At the start of the next Greiner Government's term of office I indicated that I would allocate a further 300 beat patrols during the coming term of government. That is where the figure came from, because in effect we were 300 ahead of the original program. My department, under the auspices of a new head of personnel, has conducted a review of the original program. Honourable members can imagine that the last 300 beat police would have gone to the areas of lower crime rate. The department very sensibly is now examining the new crime figures, about which I shall speak later, and re-evaluating where the 300 beat police might more properly be used in the light of existing crime rates as opposed to those of three years ago.

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The Hon. Dorothy Isaksen: Why did the Minister make the promise before and decide that now the member for Davidson would not get those beat police?

The Hon. E. P. PICKERING: The promise was part of an original program that is being reviewed by the department. I intend to stick by the department's right to put its resources where it believes they are needed. If that means that a local member was told originally by the department that he would get a beat patrol and is subsequently advised that the department has changed its mind and wants to use those officers in a more appropriate place, I will wear the political flak. I happen to think the program is working. I have just come from a press conference in which I told the people of New South Wales that in this State over the past 12 months break and enter offences have decreased by 7.7 per cent. Given the extraordinarily depressed economic circumstances in which we are living, that is nothing less than remarkable. Dr Wedderburn has been kind enough to say that this remarkable result can be attributed very much to the beat patrol program. In the eastern suburbs the incidence of break and enter has fallen by 22 per cent. Beat patrols have been working in that area. In the inner city the number of break and enter offences has gone down by 21 per cent. They are remarkable results. Honourable members will hear more about that when I am asked a question about it.

Members can be assured that when the department reviews the program to determine where those 300 officers should be put, and when the department tells me, I will be able to inform Dr Methereil whether he will still score some beat patrol officers or whether another electorate requires their services more urgently.

CRIME STATISTICS

The Hon. R. T. M. BULL: I address my question without notice to the Minister for Police and Emergency Services and Vice-President of the Executive Council. Has the Minister seen the latest crime statistics for New South Wales? What do they say about the effectiveness of policing initiatives under this Government?

The Hon. E. P. PICKERING: Before an absolutely packed media gallery, I advise the House that I have just seen the latest crime statistics for New South Wales, so ably presented by Dr Wedderburn. Crime statistics are no longer politicised. I am pleased to inform the House that the latest figures show that the New South Wales Police Service has successfully contained serious crime, despite the pressures caused by these tough economic times, by the depression that this country had to have. The Australian Bureau of Statistics figures released today show that almost half of New South Wales residents have "no perceived problems relating to crime". That is not a bad result. The Australian Bureau of Statistics research is strongly supported by the New South Wales Bureau of Crime Statistics and Research report of 1990, which was released today. It shows a significant fall in the incidence of serious crime. The Opposition obviously does not enjoy this. Both sets of figures put crime in New South Wales into proper perspective. They show that the State does not have a major crime problem.

For example, the New South Wales Bureau of Crime Statistics and Research found that fewer than three people in 100 in New South Wales were affected by assault in 1990; fewer than two in 100 were affected by robbery; and fewer than six in 100 were affected by break and enter offences. The encouraging figures are a credit to both the Police Service and the people of New South Wales. I am sure that honourable members will join me in congratulating the Police Service for its performance, which has been outstanding at a time when the economic hardship that has been forced on this State could normally be expected to cause a sharp increase in crime, particularly in property crime. I am pleased to advise that the contrary has taken place. House burglaries, one of the most distressing crimes for victims, have declined by 11.4 per cent in 1990.

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[Interruption]

The Hon. E. P. PICKERING: Indeed. Where has the Hon. P. F. O'Grady gone? He should be hearing all these good things about the Police Service. He does not want to know about them. He ought to hang his head in shame. The figures back up the recent National Roads and Motorists Association study on insurance claims for house burglaries, which showed that the incidence of that crime had declined to its lowest level in five years. That was just shortly before we came to power. I am confident that the significant fall in house burglaries is largely due to the widespread use of beat patrols as part of the highly successful community policing program. That situation will be enhanced when we have volunteer police to back up beat patrols. The enhanced police presence in streets has markedly improved communication and trust between police and the community.

[Interruption]

The Hon. E. P. PICKERING: There are more police in Kings Cross than we can poke a stick at.

[Interruption]

The Hon. E. P. PICKERING: Yes, the honourable member can volunteer. The enhanced police presence is also evident in the successful revitalisation in the Neighbourhood Watch program as from 1989. I am pleased to inform the House that the program is proving to be a major crime fighting initiative. This is also where the people of New South Wales deserve congratulations. A vigilant community is one of the greatest assets a police force can have. The ever-strengthening ties between the New South Wales Police Service and the community serve to further reduce crime rates. The New South Wales Bureau of Crime Statistics and Research reported significant downward trends in the following crimes: break and enter; possession and or use of narcotics; dealing or trafficking in narcotics; and dealing or trafficking in cannabis. I am pleased to report that the decline in break and enter offences is most marked in areas traditionally considered to be high-risk, for example, burglaries were down 22 per cent in the eastern suburbs - I have no doubt that the Deputy Leader of the Opposition would be ecstatic about this - and down 21 per cent in the inner city. That is not a bad result. The significant drop in house burglaries is linked also to the decline in drug-related offences. House burglaries are classic crimes of the drug addict in need of quick money. The downturn in drug-related crime is most pleasing and shows that the continued high level of police activity in this area is working. In particular, it shows that the efforts of the drug enforcement agency and the regional drug squads are certainly paying dividends.

The bureau reports that there was no significant upward or downward trend in several categories of crime. These included murder, sexual assault, fraud, receiving stolen goods, car theft, illegal use of a vehicle and possession or use of cannabis. Inevitably, there was an increase in crime in some areas, but in most cases the bureau has found a positive reason for the change, such as increased reporting of crime. A case in point is assault. Although assault was up 9.7 per cent, the bureau said that this was at least partly due to the greater willingness of victims of assault, particularly those affected by domestic violence, to report the crime to the police. That is a very positive trend. Stealing also increased marginally, probably due to the effect of the recession. Most crimes in this category, such as shoplifting, involved no threat of violence. Two other recession-related increases in crime were in the areas of robbery and arson. I stress that many of the robbery offences involved bag-snatching. A 48 per cent increase in

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arson is largely due to people burning their own cars for the insurance money. That is due to the agreed value policy of insurance companies. Overall, both sets of figures released today show that New South Wales does not have a major crime problem. The credit for this can be taken by the New South Wales Police Service, which has been working in tandem with a very co-operative and thoughtful community. I am confident that the enormous gains made in community policing under this Government, borne out by today's figures, will be built on in the crime figures for 1991, especially with the impact of voluntary policing.

WATER SUPPLY MANAGEMENT

The Hon. R. S. L. JONES: I ask the Minister for Health and Community Services, representing the Minister for Housing the following question without notice. Is it a fact when demand management of water supply is introduced there is a considerable reduction in household waste of water? Is it also a fact that the Sydney business sector is cross-subsiding domestic use and thus making domestic water use artificially cheap? When will the Minister introduce genuine demand management for the supply of Sydney's water?

The Hon. J. P. HANNAFORD: I was interested to note that during the debate on the Hunter water supply legislation a colleague of the honourable member commented on the way in which the significant increase in charges for water in the Hunter had had an impact on demand and said that this policy would be supported by the Australian Democrats. The Hunter is an example of the impact of demand management in reducing the demand for water. I know that the Minister for the Environment, when responsible for the Water Board, sought to introduce mechanisms of demand management. A significant increase in charges was not considered as a mechanism, but a charging policy needs to be addressed. Cross-subsidisation by commercial users is recognised in New South Wales. I know that in Victoria there has been significant cross-subsidisation. There is a view that there should not be such

cross-subsidisation and that there should be transparency in charging for services. The approaches being taken by my colleague are multifaceted and recognise that in a period of economic stress there is a need to keep down water charges. We must recognise cost imposts on the family. That will continue to be addressed as this Government sees it as critical. As to the greater detail, which needs to be addressed to give a fuller answer, I will refer the question to my colleague and obtain an answer for the honourable member as soon as possible.

YOUTH REFUGE FUNDING

The Hon. R. D. DYER: My question without notice is directed to the Minister for Health and Community Services. Is the Minister aware that a board of directors meeting of Gosford City Community and Information Services Limited held yesterday afternoon decided unanimously to close both the Gosford youth refuge for street kids and the crisis refuge for adults and families, to take effect from 31st December? Is the Minister aware also that this decision was taken on the basis of this organisation's view that there is a lack of formal commitment by the Department of Community Services as the funding body? What action does the Minister intend to take to avert these closures?

The Hon. J. P. HANNAFORD: I thank the honourable member for his question. He should have been listening to the answer I gave to the question asked by the Hon. Elisabeth Kirkby. Quite obviously the Hon. R. D. Dyer has taken his question from a press release that was issued yesterday morning. I will reiterate for the honourable member what I said earlier today to this House, that no refuge will be closed and, if it

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is, it will not be because of the efforts of this Government. Notwithstanding that, I am informed that yesterday the board of directors met and expressed concern about public comments being made by people who were supposed to be speaking on behalf of that organisation. I am informed that yesterday the board of directors met also with representatives of my department and indicated it was prepared to look at the way in which services should be structured in order to be able to continue to provide those services.

I recall what was said in the press release concerning the lack of growth funds. I reiterate what I said earlier to the House, that the board's proposal for additional grants to the organisation to enable it to expand its services is an application that I support. As the honourable member would know, these applications require the approval of his colleagues in Canberra. Some time ago I forwarded a proposal to Mr Staples but he has not yet advised me of his approval for the funds to be made available. The advice I have received is that the Minister is not willing to approve the proposals until he has worked out the position in relation to the impact of the award, and that funds which would have been coming to New South Wales in order to provide for expansion of services may be available to meet the award and not to provide growth for the services. The statement issued yesterday by the group is totally misleading. It is misleading to suggest that the New South Wales Government is not willing to make funds available. The statement is misleading in that it fails to represent the involvement of the honourable member's Federal colleagues. It ill behoves the honourable member to rely on that statement when the person who spoke on radio to support the statement is a member of the same political party as the honourable member and a close colleague of his Federal Labor colleague and former Minister for Community Services, Frank Walker.

STREET VIOLENCE

Reverend the Hon. F. J. NILE: I wish to ask the Minister for Planning and Minister for Energy a question without notice. What action is the Government taking to reduce violence and anti-social behaviour at Kings Cross, The Rocks and Darling Harbour over the new year holiday period as a result of alcohol consumption?

The Hon. R. J. Webster: I suspect that the question should be answered by the Leader of the House. I defer to him as he has responsibility for law and order.

The Hon. E. P. PICKERING: I thank the honourable member for his question. Honourable members will recall that the Government introduced legislation to this Parliament some time ago which was innovative and provided the ability for local government to declare areas to be drink-free zones. This sort of approach has been very effectively used for some time now in some western towns without the benefit of the necessary law. On a visit to one of those towns with my dear friend the previous Attorney General, Mr Dowd was kind enough to advise all and sundry that their action was ultra vires, and that it required attention in the Parliament. That was provided recently. I understand that local government has taken a decision to declare certain areas as drink-free zones during the forthcoming festive season. It will be interesting to note its effect. There is no doubt that there have been occasions, particularly under the former Labor administration, when ugly scenes developed on New Year's Eve at The Rocks. I remember that one year a young man was bashed to death by some young revellers who used an iron bar. That is hardly a way to behave. However, in the past few years the revellers have been well-behaved on New Year's Eve. It will be interesting to note how the action taken by local government enhances the quality of the festivities for law-abiding citizens, particularly for families who want to come to the city to enjoy the fireworks without being harassed by those who have overindulged in alcoholic beverages.

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BUILDING INDUSTRY ROYAL COMMISSION

The Hon. A. B. MANSON: I ask the Leader of the Government, representing the Premier, Treasurer and Minister for Ethnic Affairs a question without notice. Further to the Minister's comments a few moments ago about the Royal Commission into Productivity in the Building Industry in New South Wales and costs being scandalous, will the Minister advise how many construction sites commissioner Roger Gyles visited on his trip to the United States of America and to Japan? How many construction sites has he visited in New South Wales and elsewhere in Australia since his appointment as royal commissioner?

The Hon. E. P. PICKERING: That is a question that clearly falls into the category of trivia. The interest the honourable member has shown in the royal commission must be taken as an indication that when the report is received the honourable member and his union mates will not enjoy it. I suspect the questions are designed to safeguard some of his union mates. I can see the puppet strings attached to the honourable member's back, and they are being pulled. The royal commission has proved to be valuable. I have no doubt that when the commissioner reports, his overseas experience as part of his fact-finding investigation will form a valuable part of the report and will enhance the quality of the report. I believe that if a cost benefit analysis was carried out it would reveal that the overseas trip to investigate the building industry in other countries would be shown to be of benefit. In private industry I found universally that travelling overseas to see how other countries attack particular problems was always of benefit. One could always learn from the mistakes of others or from the good things they had done, and implement the good points here in Australia. I have no doubt that the royal commissioner will report that the overseas visits have been of benefit in the pursuit of corruption in the building industry in New South Wales.

I suggest that any further questions be placed on notice.

[The President left the chair at 1 p.m. The House resumed at 2.30 p.m.]

AGEING AND HEALTH

Matter of Public Interest

Debate resumed from an earlier hour.

The Hon. Dr MARLENE GOLDSMITH [2.30]: Before lunch I was discussing the increasing emphasis on youth in our culture and what a negative thing that is for all of us. It is an impoverishing trend. I met recently with a woman who is sometimes employed as an extra in a number of television programs. She has also been involved in other roles in the media for a long time. She pointed out to me that increasingly older characters are being written out of programs. The Australian program *A Country Practice* has had a couple of older characters written out of it in recent times. The story given by producers of programs such as this, when queried about this trend, is that they need to appeal to youth. As a result, our image of ourselves is getting younger and younger while the community as a whole is getting older and older. The community is not reflected in the television programs that we see; indeed, it is not even reflected in such things as news and current affairs, where, with a few exceptions, increasingly the emphasis is on looking young and effectively blow dried rather than simply presenting a credible image. One exception that immediately springs to mind is Brian Henderson.

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The actress to whom I was speaking told me that when she first began taking on roles as an extra she had no difficulty in getting parts. She is in her late 30s, or early 40s, and has grey hair. The producers of commercials and programs were very glad to have somebody with grey hair because so few models had grey hair. However, she tells me that over the last two or three years her roles have been drying up. When she asked her agent why this might be, he had one answer for her: dye your hair. There has been a trend away from using older models, even as extras in programs. Our programs are very unrepresentative of the community. They are not just unrepresentative of older people; they are unrepresentative of such groups as the Aboriginal community. We must have images of ourselves and our culture. Television is supposedly a mirror of what we are to us, and if we do not see ourselves in programs it can only be a most depersonalising and demeaning experience for those of us who do not get a guernsey in the images that the media chooses to show us of ourselves. As we are all getting older, the images of ourselves are becoming scarcer and scarcer. It is an attempt to deny and obliterate ageing from our culture. Just as new, healthy horizons are being opened up, the media is trying to tell us that older people do not exist. I conclude by referring to Anna Magnani, the great Italian actress. When she was getting on in years she said to a photographer who was about to shoot her photograph for a film, "Please don't retouch my wrinkles. It took me so long to earn them".

The Hon. J. R. JOHNSON [2.32]: One is reminded of the old adage that you know you are getting old when the candles cost more than the cake. That is not original. It is one of Bob Hope's lines. In our society we do not appear to have the reverence for our senior citizens that abides in older societies, such as Mediterranean and Asian countries where the veneration of the elderly is paramount. We have people in all walks of life saying, "Move over; you are getting too old". Let us look at the busts that adorn this venerable Chamber. We see the longest serving President, Sir John Hay, who was President for 19 years. He was in his seventy-seventh year when he vacated the presidency. My illustrious predecessor, Sir Harry Budd, was elected to the presidency at 67 years of age. Ernest Henry Farrer was in his sixty-eighth year when he was elected President of this Chamber.

I pay tribute to those who made great contributions in the past, and to those who continue to make contributions. After the devastation of World War II some great names were venerated - Adenauer; de Gaulle; Churchill; de Gasperi; Schuman; Gandhi; Albert Schweitzer. They changed the face of Europe. They set up the Coal and Economic Community that developed into the European Economic Community. They were men of vision for their own nations and for the world. Over the years men have made immeasurable contributions in their own fields of endeavour, not only in Australia but also in the United States of America. George Meaney, the long-term president of the AFLCIO, made a great contribution to trade unionism worldwide. Who would not say that probably the greatest and best-known woman in the world today is a woman nearing her 80th birthday who owns no possessions but a bucket and a change of her religious habit; that is, Mother Teresa?

Men of this nation have made great contributions. One of my predecessors as President of this Chamber was William Charles Wentworth who came to the presidency when he was in

his 72nd year. In this country we have had great men such as Lloyd Rees, the artist; Sir MacFarlane Burnet; Sir Bede Callaghan, who is close to his eighties and is still chairman of the Foreign Investment Review Board; Sir William McKell, a venerable Labor man for generations; Sir Mark Oliphant; and Reg Downing, a former leader of this House who was literally loved by all who encountered him. Last year Sir Hermann Black died. For as long as I can remember he was Chancellor of Sydney

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University. He made a great contribution to this nation. Queen Victoria was no chicken when she departed this life. If one could bring a little hilarity into the debate, Colonel Sanders was 67 when he started his first Kentucky Fried Chicken shop.

Septuagenarians and octogenarians are not to be denigrated. They are to be revered because they have borne the heat of the day in order that we may live better lives. Over the years advances have been made to assist in providing better quality of life in some small measure to the elderly or senior citizens of this nation. Premier Greiner has continued the tradition established by Premier Wran and continued by Premier Unsworth of having a Premier's concert for the aged. But these are peripheral things. What the aged need most is comfort and someone to talk to. I am delighted that in certain parishes in this city, and also in country areas, teams of people visit elderly people. Once the elderly are registered on the list, they are visited regularly. They have assistance - someone to change a light globe; someone to register the dog; someone to take the dog for a walk. The schools are becoming involved in these projects. The elderly need all the encouragement we can give them. This morning the Hon. Beryl Evans said that we are not dealing with a radical group. I believe we are dealing with a very radical group because they have been there, they know what they want. For them the necessities of life are based on need, not greed.

Our senior citizens are our national heritage. Without our senior citizens none of us would stand in this place today. This nation would not have developed as it has without them. During the week the Hon. Joe Weir visited the House. For 24 years he was a member of this place. He is now in his eighties and, together with a former long-time trade union activist of the Federated Ironworkers Association, Bill Marstello, he visits old people's homes and sings and plays the piano. Joe refers to it as being "on circuit". He performs seven concerts a day. There is glory in that and we can reflect in that glory. I want to refer to all the older members of our society, in particular to the members of the Aboriginal community. We have treated the Aborigines less kindly than the barbarians were treated.

The DEPUTY-PRESIDENT (The Hon. R. T. M. Bull): Order! The honourable member has exhausted his time for speaking.

The Hon. HELEN SHAM-HO [2.42]: I support this motion and I would like to congratulate the Hon. Beryl Evans for raising this important issue - ageing and health, the mortality revolution. Confucius said, "Honour the old and care for the young". The Chinese see caring for the elderly as a duty inherent in Chinese culture. We are proud of our Chinese senior citizens. The Chinese people have great respect for the elderly and they say it is like having a treasure at home. This morning the Hon. R. B. Rowland Smith referred to a conversation he had with his father earlier today. I also telephoned my father in Canada this morning. Last night my three aunts arrived from Hong Kong. They are all over 75 years of age and were surprised not to find me at home. As honourable members know, we were here in this Chamber last night at 12 o'clock, so they did not find me at home. My father is over 85 years of age. I telephoned him to tell him that his three sisters had arrived from Hong Kong. They are no chickens. They have come all the way to see Australia for the first time and tomorrow they will go to Canberra until Sunday. I will have the pleasure of having them with me from Sunday until the 29th when they go back to Hong Kong. This is a group of three elderly ladies who travel around the world.

The Hon. D. F. Moppett: What have they done wrong that you have to send them to Canberra?

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The Hon. HELEN SHAM-HO: They will love Canberra, our capital city; they will have to see it. My father, who is 85 years of age, lives alone in his own home in Canada. Unfortunately, my mother passed away. My father does all his own shopping and, believe it or not, he is still driving. Canadians have to renew their licences every year. I am pleased to be able to report to the House that every year so far my father has been successful. The lifestyles of older people are changing. Ageing is a positive process. Most older people enjoy good health and contribute more to society than they receive. Years ago older people were portrayed as welfare recipients. In my mind they deserve our respect and that image should not be attributed to them. Earlier in the debate other honourable members referred to the fact that the Australian population is ageing rapidly. Figures from the Australian Bureau of Statistics show that at 30th June, 1989, an estimated 1,816,000, or 11.1 per cent, were aged 65 or over. Let me put that in perspective with the number of aged people born overseas. Unfortunately I do not have the 1989 figure, but in the 1986 census 27.8 per cent of the population that were born overseas were aged 65 or more, compared with 22.4 per cent of the total population.

I would like now to focus specifically on the aged of the Chinese population. Honourable members would be aware that the Chinese look after their old folks. That informal network is well accepted by the community. However, due to the inevitable change in economic and social values some families are no longer capable of taking care of their elderly in the traditional way. It is not their fault, but they must learn to cope in this new age of reality. Today it is more sensible and practical to delegate this role to homes for the elderly where most of their special needs will be better met as these homes have professional staff to look after them. Earlier the Hon. J. R. Johnson said that comfort is very important to the elderly. Often it is necessary to make the lives of the elderly more comfortable and easy. Nursing homes try to provide this comfort which is culturally more appropriate to the age, beliefs and interests of elderly folk. They make the quality of life more worthwhile, meaningful and creative. The support and care the elderly receive fulfils their basic human, social and emotional needs and they have more interaction with their peers than they would if left isolated at home while their sons and daughters are at work. Since 1978 the Chinese community has united in its effort to provide housing and accommodation for the elderly. Because of their lack of extended families, they can no longer support the elderly in the traditional way.

I would like to talk specifically about the elderly Australian Chinese home. I have been appointed as their adviser. A community project has been organised by a management committee. When the project - which is half finished - is completed it will provide long-term accommodation for up to 15 residents, respite care for up to two persons and a centre where the elderly can socialise and organise various activities, including occasional outings. I am talking about those who are able to look after themselves - the group of elderly people who can no longer live at home because of changed economic and social factors. They are happy in these homes. I am pleased to be able to say that I have helped to raise funds for this group. If any honourable members are interested, on 24th February next year we will have a big fundraising function at a Chinese restaurant -

The Hon. D. F. Moppett: Guess which one?

The Hon. HELEN SHAM-HO: The River Palace at Parramatta offered to raise money for this project which is only half finished.

The DEPUTY-PRESIDENT (The Hon. R. T. M. Bull): Order! The honourable member's time for speaking has expired.

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The Hon. PATRICIA FORSYTHE [2.52]: It is with pleasure that I participate in this debate, perhaps as one of the younger members of the Chamber, but I believe that I have had the right experience. I have a good attitude to age, perhaps because all my grandparents lived until in their 80s and 90s and retained all their faculties. They showed me by example that age is relative. My parents are well into their seventies and, until recently, have been keen golfers. My mother was still an A grade golfer in her seventies. She is now in her late seventies but she refuses to admit that she is eligible to

play in the veterans class even though people can be veterans at 60. I understand what the Hon. Beryl Evans is driving at. Age is a question of perception. I am not surprised at what elderly people can do. I am not surprised by people dropping down cliffs and I was not surprised when this week on the front page of the *Sydney Morning Herald* I saw the picture of the 82-year-old grandmother skydiving. I accept that that is a part of their lives. I came across interesting views when I was looking for information to contribute to this debate. In March 1989 the Department of Health put out a document entitled "Healthy Older People Project". It included a table on the perception of the definition of the aged. Statisticians see it as people who are 60 plus or 65; the Department of Social Security sees it as women over 60 and men over 65; the working population sees it as retired people; 15 year olds see it as 30 year olds, their parents or their grandparents; various State legislation refers to it as being 70 plus; the general community sees it as anyone who is 10 years older than oneself; and healthy older people see it as unhealthy older people.

Certainly there are different perceptions about age. The Hon. J. F. Ryan provided a clue to that in his maiden speech. In February this year the *Sunday Telegraph* set out a table of excellence. It is of course all a perception, but according to this table, the optimum age of excellence for a gymnast is 14 years; for a marathon runner, 30 years; a female swimmer, 14; a racing driver, 30; a fashion model, 17; a politician, 47; a surgeon, 50; a fighter pilot, 26; a judge, 65; and so on. Of course, we know from experience, be it a female swimmer like Lisa Curry-Kenny or a golfer like Jack Nicklaus, that age is relative. They have shown that there is no norm to define the whole community. In this debate the Hon. Beryl Evans has reminded us that we should throw away some of our preconceived ideas and acknowledge that we have nothing to fear from ageing. However, I thought the debate would lack something if we did not note also, as we talk about the mortality revolution, that there is an entire group within our population for whom the revolution has not come. The Hon. J. R. Johnson commenced to mention that group, our Aboriginal people, but his time expired. Aborigines have not experienced that mortality revolution.

The proportion of Aborigines in New South Wales aged 60 years and over is only 3.3 per cent of the Aboriginal population, compared with a proportion of 15.7 per cent for the general population. Aborigines have a much shorter life expectancy. Many Aborigines manifest ageing characteristics prematurely, as early as 35 to 40 years. The proportion of Aborigines aged 40 to 49 years is only 12 per cent of the Aboriginal population, compared with the State average of 22 per cent. The life expectancy of Aborigines is what the Australian - that is those with a European background - life expectancy was 100 years ago. The life expectancy of Aborigines is 100 years behind the rest of the population. With regard to causes of death among Aborigines, respiratory diseases and lifestyle diseases such as hypertension and diabetes are much more prevalent than among other Australians. Hypertension is twice as prevalent and diabetes is three to eight times as prevalent. These figures are directly related to the Aborigines' poorer socioeconomic, housing, education and employment circumstances. In a bipartisan debate we can relate these facts without seeking to score points. These are problems and issues that we all must accept. In my maiden speech I referred to the incidence of deaths

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among Aboriginal children, but those comments would have been relevant to the entire Aboriginal population. We will do a disservice if in the next decade we do not do something about those statistics.

Older Aborigines share the circumstances of the rest of their communities, but suffer far more so from the consequences. They suffer more from rapid change in the structure of black families and in their ability to care for their older family members in the traditional way. Changes in family networks means that older Aborigines may no longer receive the status and respect traditionally afforded them. Unlike older non-Aborigines, older Aborigines do not own their own homes. They have disadvantages with regard to access to resources and services. Many services are paternalistic or inappropriate in design. Fewer older blacks, particularly traditional people, feel comfortable with white-staffed and run health and community services. The carers pension can be paid only to a single individual and the responsibility for caring for older Aborigines is more likely to be shared by a large number of people. We do so many things judged by our standards. Another problem is a lack of awareness by Aborigines of resources and services to which they are entitled. I said that this was a

bipartisan debate. However, it is difficult not to mention some of the things the Government has done. I do so not in an attempt to score points but because I think there is a way ahead. I think many people in the Aboriginal community can be offered hope. The matter is not negative. As Aborigines acquire greater self-esteem they may well be the group that will enjoy the greatest advances in life expectancy and health during the next few years.

In September the Minister for Health and Community Services launched an Aboriginal health evaluation document in which he provided an historical analysis of Aborigines and their diseases over many years. He highlighted communities in which there has been enormous improvement in recent years. In his press release he said that in some communities the changes have been dramatic. At Tabulam on the North Coast, Delleise Walker, an Aboriginal health promotion officer, said in a report to the evaluation study that the whole community has improved 100 per cent because they are regaining their sense of self-respect and self-determination. The evaluation report outlines the need to improve housing, to have greater access to transport and to establish more and better food and clothing outlets. The report points out the main causes of hospitalisation for Aborigines, and it gives the Aboriginal community - and by and large they are the people who are undertaking the evaluation - some hope and direction. As they acquire self-esteem they will move forward.

This year the Women's Advisory Council has, for the first time, undertaken a pap smear program aimed directly at Aboriginal women. Already one program is under way in Sydney and another is to be undertaken at Bourke. That is directly as a result of the work of alderman Yvonne Howarth, of Bourke Shire Council, an Aborigine who is setting a lead. When I worked in the office of the Minister for Local Government I found that in the communities that had a strong leader or a strong group of people there was hope for the future. We owe it to the Aborigines to acknowledge that they have missed much of this revolution. We should give them hope that if we work together, this decade may see some dramatic improvement and progress. I congratulate the Hon. Beryl Evans for moving this motion.

The Hon. BERYL EVANS [3.2], in reply: I thank honourable members for their contributions. However, one thing that has come through very clear from the younger members is that they have not completely understood what we are striving for. We are not looking for cheers or recognition for what people aged 60, 70, 80 or even 90 are capable of doing. The younger members seem to think that only they should be able to

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achieve. What we are endeavouring to say is that there is really no difference in age groups, there is no reason why a 60-year-old cannot do what a 26-year-old does. It may be done more slowly, with more thought, with a greater realisation of its worth, and perhaps with a little more care. But the important thing is to stop putting people into categories according to their age. I have seen a small child play sport better than a 19-year-old, an 86-year-old person ski better than a 19-year-old; and a 9-year-old with an IQ that would make most people squirm. It really is an attitude of mind. Often one need only show a person his or her capacity to achieve. A woman I met yesterday said she had always wanted to paint but no one had showed her or encouraged her. Now at 85 years of age she is painting as well as anyone else. I heard the joy of another woman who said she may be a little wrinkled on the outside but, she assured me, there is nothing wrong on the inside. That is an attitude that young people have failed to understand. They look at the outside and do not value what is inside. I say to the so-called younger members of this House that they start on the downhill run at 25 years of age. Therefore they should listen, heed and pay attention, and start praying that we get the revolution right. Life is exciting. There are so many people to meet, so many places to see, and so many wonderful things to learn.

This morning the Hon. Bob Rowland Smith outlined many achievements of his department in including older people in sports and keep fit programs. That is so important. I love the attitude of his mother. I was lucky that my dearest grandmother and mother both lived to their 90s. I love the story of my grandmother, when she was 86, and visited my father in hospital. He said to her, "Good grief, mother, what are you doing in Sydney by yourself?" She said, "Well, as a matter of fact I have been to a lecture on Malta". He said, "Whatever for?" She said, "Because I thought it was interesting". These are the things that keep people young and the reason why people live so well. My

mother drove a car until she was 86 years of age and heaven help anyone who could drive better than her. Figures have shown that in the year 2000 in the United States one million people will be 100 years of age and over. I would like honourable members to think about that because Australia is a country that fails to realise the ability and capacity of older people. One need only examine countries and nations that respect the value of older people for senior positions and leadership. Perhaps Churchill is the best example one can give for this. I know what an enigma I have been to my party because I have not conformed to what they thought I should do because of my age. I remember on my preselection I was told many people were canvassing, and saying, "She is too old, for God's sake". A member who is no longer in this Parliament was one of those people. Later I spoke at his branch and conference. At the end he gave me the best wrap up, saying that I did more than most of my colleagues, travelled further, and had more energy than all of them put together. I reminded him of his earlier comments and his remarks were, "Yes, but haven't I learnt better since?"

I know that I am becoming more and more tempted to stand again when my term is up in this Parliament because I honestly believe that this House must have representation for what will be the largest majority in my age group in this State. As an aside I wish to comment on two members in this House. This morning I considered that the Hon. Bob Rowland Smith wore the best tie; it showed his young-at-heart spirit because it has Father Christmases and Christmas stockings. I loved it. I always support the view that the decorum should be maintained but Dr Brian Pezzutti's bright shirt, well-matched bow tie and grey suit surely would not be embarrassing to his peers. I would suggest that bow ties were worn in this House many years ago by some very eminent members. Blue and striped shirts in those days would have been eyesores and absolutely out. What I have said today is important; we are talking about important people who have so much to contribute to this State and nation. Let the Government relate to these

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people and react to their needs, not to the whims of departments, perceptions and off-handed payments but accept the need to respect and to listen to older people for wise advice and assistance and let the revolution roll on.

Discussion of matter of public interest concluded.

SEARCH WARRANTS (AMENDMENT) BILL

Second Reading

Debate resumed from 11th December.

The Hon. E. P. PICKERING (Minister for Police and Emergency Services and Vice-President of the Executive Council) [3.13], in reply: I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

The Hon. R. D. DYER [3.15]: I move:

Schedule 1. After proposed item (13), insert:

(14) After section 25, insert:

Annual report

25A. (1) The Minister must, within 4 months after 31 December in each year, prepare a report on:

- (a) the number of warrants sought under this Act and the number of warrants granted in that year;
 - (b) the number of applications made in person under section 11 and the number of telephone applications under section 12;
 - (c) the number of warrants authorised for execution by day and the number of warrants authorised for execution at night under section 19;
 - (d) the number of applications for warrants made in that year by:
 - (i) police officers under Part II of the Act; and
 - (ii) each of the authorised agencies under Part III of the Act;
 - (e) the number of applications for renewal of warrants under section 20; and
 - (f) such other matters relating to the use of search warrants and to the administration of this Act as the Minister considers appropriate.
- (2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament.

The Opposition is seeking to insert in the Search Warrants Act a provision which would require the Minister administering the Act for the time being to furnish an annual report.

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I adverted to this matter in my concluding remarks on the bill during the second reading speech and I indicated that annual report requirements already exist for warrants relating to listening devices and telephone interceptions. There is a general argument in favour of annual reports, given that they do permit Parliament and citizens to witness how legislation operates in practice. On a bipartisan basis one could have little argument regarding the usefulness of such a provision. Within four months of the year ending 31st December, the Minister would prepare a report regarding the number of warrants sought under the Act and the number of warrants granted during the particular year. In addition, details would be given of the number of applications made in person under section 11 of the Act and the number of telephone applications made under section 12.

Further, the number of warrants authorised for execution by day and the number of warrants authorised for execution at night as permitted under the legislation would be set out. The number of applications for warrants made in the particular year by police officers under part 2 of the Act and each of the authorised agencies under part 3 of the Act would be set out in addition to the number of applications for renewal of warrants under section 20. Finally, the report would set out such other matters relating to the use of search warrants and to the administration of the Act as the Minister considers to be appropriate. Of course the report would be laid before both Houses of Parliament. Last night when responding to the debate in another place the Attorney General said:

I also give an undertaking that in the interim following the passage of this bill tonight, the Government will very carefully consider the points raised by the member for Ashfield and by other members of this House. The member for South Coast also considered the current legislation could be improved. I look forward to coming back in 1992 with amendments that will further refine search warrant legislation as it applies in this State.

It seems to me that the Attorney General has an open mind regarding further reform of this legislation. Having regard to that it is not my intention to force a division on this particular amendment because the

Attorney has adopted a reasonable attitude in another place. The Government has shown itself willing to reform this legislation already, to the extent that this bill is before the Committee. I put to the Committee, though, that this would be a very useful amendment because in the interests of open government and informing society generally as to the exercise of the powers granted under this quite important legislation, it is in the public interest that the actual mechanics of the working of the legislation should be made public. For those short reasons I commend the amendment to the Committee, but on the qualified basis I have mentioned. I will leave it to the Government to take this into account during its further consideration of the need for further amendment to the Search Warrants Act.

The Hon. P. F. O'GRADY [3.20]: This amendment to the Search Warrants Act will not fulfil the recommendations made in the reports on the Blackburn, Gundy and Brennan inquiries. The recommendation from each of those inquiries was that the way in which search warrants had been obtained and executed was not appropriate. As a result various recommendations were made about amending the legislation. The main point to be made about schedule 1 is that the phrase "an authorised justice" can mean a magistrate, a justice of the peace who is a Clerk of the Local Court or a justice of the peace who is employed in the Department of Courts Administration and who is declared, whether by name or by reference to the holder of a particular office, by the Minister administering this Act. It should be a magistrate or judge who has control over the issuing of search warrants. Following the events in Operation Sue and the Gundy, Brennan and Blackburn inquiries, we can have no confidence in the capability of this bill to clean up procedures relating to applications for search warrants unless authorisation is taken from the hands of clerks and given to judicial officers. The report of the inquiry into the death of David John Gundy by the Royal Commission into Aboriginal Deaths in Custody says at page 276:

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The officer seeking to make the entry must believe on reasonable and proper grounds prior to entry that the person he is seeking is on the premises.

The commissioner made the point that before a citizen's telephone can be tapped or a listening device secretly used, police must obtain a warrant from a judge of a superior court, Federal Court or Supreme Court. A surprise armed invasion of a citizen's home should not be treated in any less serious manner. This is a serious issue. The amending legislation should require that only a judge or a magistrate may issue a search warrant. It should not be left in the hands of a more junior officer.

The Hon. ELISABETH KIRKBY [3.23]: As the Hon. R. D. Dyer said, it is obvious that when the second reading debate was resumed in another place late last night the Attorney General indicated that he was happy with the analysis of the bill by the honourable member for Ashfield. He believed also that many of the statements made by the honourable member for Ashfield had validity and that the Government was willing to take those ideas on board. He made the following statement:

As a result of the contribution of the member for Ashfield and the very detailed suggestions he put before the Parliament, I have had a discussion with him in the interim and have indicated that the Government would be prepared if necessary to stand this bill over tonight until the resumption of Parliament some time early next year. That will give the Parliament an opportunity to consider in greater detail the amendments foreshadowed by the honourable member for Ashfield.

He went on to say:

. . . the member for Ashfield recognises that the proposed bill includes amendments which will certainly improve the current law.

He continued further:

I also give an undertaking that in the interim following the passage of this bill tonight, the Government will very carefully consider the points raised by the member for Ashfield and by other members of this House.

I hope that a similar undertaking will be given in this Chamber by the Minister for Police and Emergency Services. It should be obvious to anyone who listened with care to the debate last night that the concerns I raised on behalf of the Australian Democrats did not denote my opposition to the bill, but rather my concern that the bill was not strong enough in its provisions for the authorisation of search warrants. I made that comment on what I believe to be excellent legal advice. That was the recommendation of Judge Staunton and Commissioner Wooten. If a royal commissioner and Judge Staunton, both experts in the field and men of great authority, believed the procedures needed tidying up and strengthening, I had every right to accept that authority. Therefore I voiced my concerns and said that I would be supporting the amendment to be moved by the Opposition. Since then I have been informed that there are problems with the amendment as it is framed, because of the blurring of the responsibility of the Minister for Justice and the responsibility of the Attorney General. Statistics about things like search warrants are not collected by the Department of the Attorney General but by the Minister for Justice. That is an administrative matter that can be worked out by the Government without much difficulty. It would not preclude the suggestion that every year an annual report should be prepared and tabled in the Parliament showing how many search warrants had been issued in any one year and the reasons for which they were issued.

That is the spirit of the amendment moved by the Hon. R. D. Dyer. I trust that in his reply at this stage of the debate the Minister will assure the Committee that the
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undertaking given last night in the other place by the Attorney General will be honoured and that the amendment will be drafted in a form that the Government can accept so that it will meet the needs of the two departments. That should be able to be done without any logistic or regulatory problem. After what happened over the tragic death of David Gundy and the tragic accident to Brennan the public are concerned about police powers to enter homes and that citizens who later are discovered to have committed no offence are subjected to treatment that is not what we expect as a civilised society from our Police Service. I ask the Minister to give that assurance. Though I still support the spirit of the amendment moved by the Hon. R. D. Dyer, I now understand the machinery problems facing the Government and why it is not possible to accept the amendment in its present form.

The Hon. P. F. O'GRADY [3.28]: Can the Minister inform the House what is meant by the term in proposed section 12A(1)(f) "any other information required by the regulations"? Can the Minister tell the House what the regulations might be? The point about schedule 1 is that proposed section 12A(2) provides as follows:

(2) An authorised justice when determining whether there are reasonable grounds to issue a search warrant is to consider (but is not limited to considering) the following matters:

(a) the reliability of the information on which the application is based, including the nature of the source of the information;

Section 12A(4) states:

Nothing in this section requires an applicant for a search warrant to disclose the identity of a person from whom information was obtained if the applicant is satisfied that to do so might jeopardise the safety of any person.

How do subsections (2)(a) and (4) fit together? The authorised justice is supposed to consider the reliability of the information and the nature of the source, but the police do not have to tell him who the source is. With the inclusion of those provisions, we have not moved any distance towards changing the situation which allowed the events of the Gundy and Brennan incidents to take place. Prison informants giving information still may be able to gain some advantage. We have not ensured that

information given is reliable and credible and that a search warrant is issued only when information can be deemed to be reliable. Section 12B(1) states:

A person must not, in or in connection with an application for a search warrant, give information to an authorised justice that the person knows to be false or misleading in a material particular.

This section is very wide. How easy would it be to prove that a police officer knew that information was misleading or false? If this section were applied to the cases of Gundy and Brennan, it would still not be possible to prove the knowledge of the police as this would be a subjective judgment because in those cases and in many others, including Operation Sue, police simply failed to check their intelligence. They received a little information and went to an authorised justice to get their warrants. It cannot be said that they would have known that the information was false or misleading. I support section 12C, which goes some way towards overcoming the problems of police instruction 9O..104. I ask the Minister whether it is possible for the library or interested members of Parliament to look at police procedures and rules on this matter. I made some comments on section 15A last night.

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The Hon. E. P. Pickering: On a point of order. I have been unduly lax in that we have a matter before the Committee with which we ought to deal. Then, by all means, questions may be raised as we go through the bill in Committee. We are dealing with a particular amendment -

The Hon. P. F. O'Grady: We are dealing with schedule 1.

The Hon. E. P. Pickering: I realise that we are dealing with schedule 1, but a particular amendment is before the Committee relating to item 14. For the purposes of clarity, we should deal with that matter and then work through the other parts of the bill.

The Hon. P. F. O'Grady: I have no problems with that approach.

The TEMPORARY CHAIRMAN (The Hon. Beryl Evans): Order! No point of order is involved.

Amendment negatived.

The Hon. P. F. O'GRADY [3.34]: Section 15A states:

(1) One of the persons executing a search warrant must, before any of the persons executing the warrant enters the premises:

(a) announce that the person is authorised by the search warrant to enter the premises; and

(b) give any person then on the premises an opportunity to allow entry into or onto the premises.

(2) A person executing a search warrant is not required to comply with this section if the person believes on reasonable grounds that immediate entry is required to ensure the safety of any person or to ensure that the effective execution of the search warrant is not frustrated.

The Hon. E. P. Pickering: Obviously the honourable member would agree with that.

The Hon. P. F. O'GRADY: Would the Minister for Police and Emergency Services? Take the Brennan case. According to police information, there was a police badge and marijuana on the premises -

The Hon. Dr B. P. V. Pezzutti: And a gun.

The Hon. P. F. O'GRADY: - and a gun. Let us assume that the events surrounding the Brennan case occurred under this legislation. It seems to me that there would be no difference in the way the police operated on that night. They could merely say that to ensure that the effective execution of the search warrant was not frustrated they had to charge in.

The Hon. E. P. Pickering: What does the honourable member propose - that they should knock on the door and say "Police!"?

The Hon. P. F. O'GRADY: With the greatest respect, the Minister is responsible in this Chamber for this legislation and for the Police Service in this State. We have had Operation Sue, Blackburn, Brennan and Gundy, all of which were disasters.

The Hon. E. P. Pickering: And we have had thousands upon thousands of very successful operations conducted by police at the same time.

The Hon. P. F. O'GRADY: Is the Minister saying that because we have had thousands of successful operations what occurred in the above cases is acceptable?

The Hon. E. P. Pickering: That is a nice piece of logic.

The Hon. P. F. O'GRADY: Is that what the Minister is saying?

The Hon. E. P. Pickering: Of course I am not saying that. I am trying to strike a little balance in what the honourable member is saying.

The Hon. P. F. O'GRADY: I am not sure what kind of balance the Minister is seeking to strike.

The Hon. E. P. Pickering: I am trying to portray the real world instead of the distorted world which the honourable member is seeking to portray.

The Hon. P. F. O'GRADY: I do not seek to portray a distorted world. I seek to have a piece of amending legislation put in force which goes some way towards ensuring that cases such as have been mentioned do not occur again.

The Hon. E. P. Pickering: Where is the honourable member's amendment? What would he do?

The Hon. P. F. O'GRADY: Can the Minister for Police and Emergency Services, as the Minister responsible, tell me why section 15A(2) allows police not to announce their arrival, so that the events of Operation Sue, Blackburn, Brennan and Gundy can occur once again? Is that the case?

The Hon. E. P. PICKERING (Minister for Police and Emergency Services and Vice-President of the Executive Council) [3.38]: With regard to the matters raised by the Hon. P. F. O'Grady, I am advised that section 12A is being carried forward and no regulations are proposed at present. Under section 12A(4) the applicant must tell the justice everything he needs except the person's name who gave that information. For example, the justice must be told how the person got the information and his relationship to the occupier of the premises. This is a safeguard for informants. Section 12B makes it an offence to give false information. This is a question of fact for the court to decide. For example, further information from the original informant or another police officer may show that the applicant knew that the information was false. It would be easy to show that the applicant misled the justice in situations where the applicant failed to reveal that he or she had made a previous application as required by section 12A)(1)(e).

In the real world it is obvious that on occasions police officers have to be armed in order to protect the lives of those inside a house, to protect the lives of police officers, or to protect evidence. I believe that the Hon. P. F. O'Grady accepts readily that the provision must apply. If the only power police had was to knock on the front door and to say that they had a warrant to inspect the property, and to then sit calmly waiting for the occupant to open the door, any number of things could happen. One could imagine that if it was suspected that a kilo of heroin was on the property, the heroin could be flushed down the toilet long before the police got through the front door, and that would not be helpful. Indeed, a bullet could come through the front door. The Hon.

P. F. O'Grady acknowledges the requirement for that provision. He is not arguing about the provision because he accepts that in the real world of good guys and bad guys there are some nasty people and

the police must be given some protection. His concern is that, if the provision remains, we may have a repeat of an incident such as happened with the shooting of Mr Brennan. That incident has nothing to do with the provision. In that case it was not the fact that the police entered the property but the way they behaved once inside the property that was germane to the shooting of Mr Brennan. As I have said in this House on more than one occasion, these are exceedingly difficult and dangerous situations. They are probably as close to wartime conditions as it is possible to get in a society that is not at war. We expect our police officers to face difficult circumstances every day and to do the best they can in those circumstances. It is inevitable that occasionally, as a result of human nature or misjudgment, something goes wrong. Clearly we strive to do everything possible to minimise those circumstances.

The Hon. P. F. O'Grady: Where is it in the legislation?

The Hon. E. P. PICKERING: One cannot strive through a form of words to minimise those circumstances. That is done through training of the people involved, through procedures and so on. In a legislative form one cannot go any further than this Government has gone. It cannot be prescribed in the legislation. When I ask the Hon. P. F. O'Grady what his solution is, his answer is to ask me what I will do about it. The Government has done what it believes to be appropriate. We understand the honourable member's well-known hatred of the police and the hang-ups he has in this regard.

The Hon. P. F. O'Grady: On a point of order. I ask the Minister to withdraw that statement. I find it offensive.

The Hon. E. P. Pickering: You do not think you hate them, the way you carry on in this Chamber?

The Hon. P. F. O'Grady: I certainly do not and I object most seriously to the words used. I ask that you withdraw.

The Hon. E. P. Pickering: I withdraw with alacrity. I did not realise the honourable member was so sensitive about these things. I have been misled by his conduct in the House.

The Hon. R. D. DYER [3.41]: I realise the Committee has voted on the amendment. As we are still within schedule 1, I ask the Minister to give an undertaking similar to that given by the Attorney General in the other place to the effect that during the coming months the Government will give serious consideration to that amendment and to the other comments the Opposition has made in connection with the review of this legislation.

The Hon. E. P. PICKERING (Minister for Police and Emergency Services and Vice-President of the Executive Council) [3.43]: I am more than happy to endorse the comments made by the Attorney General in another place. It is his legislation and, if the Attorney General gave an assurance in another place, it does not need me to assure this House of that matter. The Minister's words in another House are enough.

The Hon. R. D. Dyer: He was not aware of my amendment.

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The Hon. E. P. PICKERING: I make the point that the amendment should be opposed here, and it has been, because it is in an inappropriate form as the Minister for Justice is the responsible Minister. The Government does not resile from the need for those figures to be kept. The Hon. P. F. O'Grady asked me whether search warrants should be issued by magistrates and judges only, and not by lesser figures. Consideration was given to restricting the issue of search warrants to magistrates only but the idea had to be rejected because it was considered impracticable in view of the volume of applications made. In 1990 there were 9,900 applications.

The Hon. P. F. O'Grady: In what sort of categories?

The Hon. E. P. PICKERING: I do not have that information. In New South Wales it has been found to be effective and efficient to have other people who are properly trained to issue search warrants. A combination of specifying criteria that must be considered and the training of authorised justices will result in a higher standard of determination. It is clear that previously the system was not as good as it ought to have been. There is no doubt the area has been tidied up comprehensively.

The Hon. P. F. O'Grady: Could the Minister find out the categories that the 9,000 applications fall into?

The Hon. E. P. PICKERING: I suspect that cannot be done today, but we will look into it.

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

CENTENNIAL PARK TRUST (AMENDMENT) BILL

Bill received and read a first time.

Suspension of certain standing orders agreed to.

Second Reading

The Hon. E. P. PICKERING (Minister for Police and Emergency Services and Vice-President of the Executive Council) [3.50]: I move:

That this bill be now read a second time.

I seek leave to incorporate my second reading speech in *Hansard*.

Leave granted.

Prior to the last State election the then Opposition gave a commitment that the Centennial Park Trust would be made the body responsible for the management and environmental protection of Moore Park and the large commons area that is encompassed by the golf course and the other public open space areas in Moore Park. Following the election of the present Government, in furtherance of this commitment a detailed study was undertaken of the areas that were proposed to be transferred to the trust that currently administers Centennial Park, and at the same time consideration was given to the rationalisation of management in the Moore Park precinct. As a result of that it was determined that not only the Moore Park area but also the E. S. Marks Athletic Field be transferred to the control of the Centennial Park Trust. The detailed provisions of the Bill vest the land which comprises Moore Park and the E. S. Marks Athletic Field in the trust, change

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the name of the trust from that which it is presently given and more accurately reflects the name of the trust with its new areas of land.

The trust will also be permitted to grant licences or leases for a period of up to 20 years rather than the present eight years. This is designed to reflect the fact that there are now substantially managed commercial community facilities - the golf club being the prime one - that are now to be vested in what is to be known as the Centennial Park and Moore Park Trust. Provision is made in the legislation for a plan of management to be evolved for the amalgamated

park. In the view of the Government, the vesting of this area in what has been up until now the Centennial Park Trust demonstrates the Government's commitment to that independent community-based administration of these areas. The Minister wishes to place on record his thanks to those individuals who serve on the Centennial Park Trust and who will now serve on the Centennial Park and Moore Park Trust. They are a broad-ranging and eclectic group of individuals. It was Mr Moore's pleasure to recommend to my colleagues and have appointed - at a full Executive Council meeting, not merely the routine council of several members - the new membership of the Centennial Park and Moore Park Trust, including the Hon. Neville Wran Q.C., a former Premier of this State, who was responsible in the first instance for the creation of a separate trust for the administration of Centennial Park, which separated it from the Royal Botanic Gardens and Domain administration, where it had been previously vested.

It is a reflection of the bipartisanship in these matters that the Government is not only continuing the separate administration of Centennial Park but is vesting in that trust the whole of the Moore Park precinct because we believe that that large inner-urban environmental green space should be managed jointly and that rational amalgamation benefits will be able to be obtained. The trust is a politically ecumenical and a broadly-based community trust. Mr Moore congratulates it on the work it has done to date. The Minister looks forward to it giving greater and more environmentally sensitive management to the Moore Park area.

I commend the bill.

The Hon. DELCIA KITE [3.51]: The Centennial Park Trust is a statutory body established by the Wran Labor Government under the Centennial Park Trust Act 1983. The objects of the trust are to maintain and develop trust lands and to encourage and further the many uses made of this magnificent area. Centennial Park has certainly become the people's park. Three million people visit it annually. The present acreage of the park is approximately 540 acres, including Queen's Park, which is approximately 60 acres. The Queen's Park section has played an important role in providing facilities for organised sporting activities for local and regional populations. This bill extends the responsibility of the Centennial Park Trust to Moore Park and the large commons area that is encompassed by the golf course and other public open space areas in Moore Park. As long as the new trust is given the resources to cope with the extension of responsibility, the addition of Moore Park to the trust appears to be logical in streamlining management of parks in the southeast Sydney area. The Opposition believes that a 20-year lease is far too long; an eight-year lease would be more appropriate. The Opposition supports the bill.

The Hon. R. S. L. JONES [3.52]: Some months ago there was considerable controversy amongst the New South Wales Nature Conservation Council, the Total Environment Centre and the National Trust of Australia about the Centennial Park Trust (Amendment) Bill. The environment movement believed that a problem existed in the issuing of long-term leases. There was a considerable amount of correspondence between the Minister and various conservation groups. It is clear that, although the conservation groups are not keen on having long-term leases, they will allow for a more appropriate development of existing sites. I believe the intentions of the Minister are honourable; so are the intentions of the members of the trust. Even though these leases will extend for longer periods than is traditionally the case it should not cause any problems. The Minister said in September in his letter to the Nature Conservation Council that if the

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conservation movement wished to take the matter to the extreme it would mean closing down the golf club, the bowling club and the tennis and netball courts. No one would wish that to happen. Clearly, this is a compromise. The park should not have been alienated in the first place. But that has been done, we must accept that it has been done, and we must take it with good grace.

The Hon. E. P. PICKERING (Minister for Police and Emergency Services and Vice-President of the Executive Council) [3.54], in reply: I thank my colleagues for their support of the legislation. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

LEGAL PROFESSION (PUBLIC ACCOUNTABILITY) AMENDMENT BILL

Introduction

The Hon. Dr B. P. V. PEZZUTTI [3.55]: I move:

That leave be given to bring in a bill for an Act to amend the Legal Profession Act with a view to improving the public accountability of the legal profession.

The Morgan polls constantly show that the trust the community has for lawyers is of about the same order as the trust they have for parliamentarians. Given that this State operates under the rule of law, I believe that this sorry state of affairs should be rectified forthwith. There appears to be a lack of confidence in the operation of the regulation of the legal profession, particularly in the perception of accountability in complaints investigation and prosecution. Contrast the situation of the legal profession with that of the medical, dental and pharmaceutical professions where community trust continues at the highest level. I believe that the legal profession should have the same mechanism of control and accountability that exists for the medical, dental, pharmaceutical, nursing and other professions. It should have a legal board that controls standards and judges aberrations and breaches of those standards by way of a disciplinary tribunal and a professional standards committee. The legal board could also manage the current fidelity fund and have jurisdiction over trust fund matters. I believe that a legal complaints unit should come under the control of the Attorney General's Department. It should report directly to the Attorney General in the same way as the medical complaints unit operates. That unit may soon have its complaints process altered.

The Law Society should properly be considered to be a voluntary association with activities parallel to the Australian Medical Association. The Law Society would then have a clearer role in its day-to-day operations. Professional indemnity insurance should be managed commercially, as is currently the case for the medical profession and other professionals. I believe that the clear separation of these functions will allow the profession to be self-regulating while at the same time separating its standard setting, complaints resolution and judicial, political and administrative functions. These changes would be consistent with my fundamental belief in accountability, professional self-regulation and abolition of compulsory professional association. These are not radical proposals; they are proposals to assist the legal profession in the 1990s and to improve the perception of accountability. It is important for honourable members to note that the complaints unit of the Law Society receives the same number of complaints as is the case for medical practitioners. It deals with the same number of complaints, and the same number of people are disciplined. I do not argue that there will be a great change in the

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number of people being brought to book, but the community will have more confidence in this independent complaints unit and this resolution process. I commend the bill to the House.

Motion agreed to.

Bill introduced.

INTERPRETATION (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

The Hon. ELISABETH KIRKBY [4.0]: I move:

That this bill be now read a second time.

As is detailed in the explanatory note to the bill, the Interpretation Act relates to the interpretation, construction, application and operation of the legislation of New South Wales. It makes provision with respect to the exercise of certain statutory functions. Section 40 requires that notice of the making of statutory rules be tabled in each House of Parliament. The object of the bill is to amend section 40 of the Interpretation Act 1987 to provide that a statutory rule has no effect if written notice of the making of it is not laid before each House of Parliament. If the statutory rule is not laid before each House of Parliament, and it had amended or repealed some other Act or statutory rule, the Act or statutory rule is restored or revived as it was before it was amended or repealed. This amendment will affect only those statutory rules published in the *Government Gazette* on or after commencement of the proposed Act. That is what is set out in detail in the explanatory note.

I first introduced this bill on 10th November, 1988. Then Parliament was prorogued. I introduced the bill again on 25th October, 1990, but again the Parliament was prorogued. I had the bill placed on the notice paper again after the State election earlier this year. Today I am attempting for the third time to have this private member's bill debated in the Parliament. I should like to take a little of the time of the House to explain why I am so insistent and have persevered to the degree that I have with this legislation. My intention in introducing this bill is to attempt to restore the supremacy of Parliament. It is totally wrong that the bureaucracy and the Executive make and publish statutory rules, which affect all the citizens of the State, but fail to table written notice of them as required by an Act of Parliament. Though that happens, no penalty applies.

The Interpretation Act 1987 is crucial legislation for the administration of law, justice and government in this State. It relates to the interpretation, construction, application and operation of the legislation of New South Wales. The making of statutory rules is governed by part 6, entitled "Statutory Rules and Certain Other Instruments". All honourable members are very well aware - though members of the public may not be - that the vast majority of Acts of Parliament require statutory rules, regulations or ordinances in order to operate. The power to make statutory rules is a powerful bureaucratic tool. The present procedure under part 6, section 40, of the Interpretation Act requires that written notice of the making of a statutory rule be laid before each House of Parliament within 14 sitting days of its being made or published in the

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Government Gazette. However, the legislative requirement can be safely ignored because of the provisions of subsection (4) of section 40, which provides:

(4) Failure to lay a written notice before each House of Parliament in accordance with this Section does not affect the validity of a statutory rule, but such a notice must nevertheless be laid before each House.

In my opinion the fact that failure to lay a written notice before each House of Parliament does not affect the validity of a statutory rule is contemptuous of the Parliament. At the very least it is an excuse for bureaucratic complacency and inefficiency. The Interpretation (Amendment) Bill 1991 will change this. The amendment to section 40 will provide that a statutory rule has no effect if written notice of it is not laid before each House of Parliament within the required 14 days. That will ensure a de facto requirement that written notice of a statutory rule is tabled within 14 days. The saving provision in the bill will mean that the statutory rule will have been legally made and will have operated legally, but will cease to exist if written notice is not tabled within this time, and if the statutory rule which ceases to have effect amends or repeals some other Act or statutory rule, that Act or statutory rule is revived. Therefore the saving provision means that the bill will prevent the situation arising where there would be a total absence of regulation, because obviously in certain circumstances that would be totally inappropriate.

It has been suggested to me that my amendment will place public safety at risk. I do not accept this argument. If a situation arises where a protective regulation ceases to have effect, the previous regulation will continue to protect public safety. Of course, if the regulation is new, and relates to newly proclaimed legislation, and ceases to have effect, members of the public would hardly be any worse off. The legislation would merely revert to what pertained before the regulation was proclaimed. On 10th November, 1988, I asked a question based on the Legislative Council Statutory Rules and Instruments paper. After investigation it was discovered that there were inaccuracies in that paper. However, when the figures were further checked it became apparent that 40 regulations had yet to be tabled, and the 14 days had expired since they were published. At least four had been tabled after the required 14 days had expired. What I found of even greater concern was the revelation that a number of statutory rules made in 1987 still had not been tabled in this House by November 1988. All honourable members should be made aware that those 40 regulations which had never been tabled continue to operate. They affect, regulate and control the activities of the citizens of New South Wales even though they had never been tabled, and even though honourable members of this House and another place had no opportunity to discover what they were.

I suggest that if the bureaucrats are sufficiently well organised to publish the statutory rule and therefore put it into operation, they should be sufficiently organised to table the written notice within the required 14 days, if only as a courtesy to the Parliament. As we sit three days a week - and on many occasions recently we have been sitting four days a week - at least one month passes after the rule is published before the expiry of 14 days. Honourable members should not forget that I am talking about 14 sitting days. Honourable members will be aware that for the majority of statutory rules, written notice is tabled promptly and quickly; indeed, on some occasions within days of the rule being made or published. A further argument has been put to me that if this amendment becomes law, it will impose an unduly harsh penalty, particularly if the only reason for failing to table written notice is a minor administrative hitch. However, I believe it would be a greater injustice that a statutory rule which may create offences and penalties, and thus impose punishment for failure to comply, may itself not be tabled

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through neglect and that those guilty of the neglect would escape without any penalty for failing to obey an Act of Parliament.

I take this opportunity to apologise again to the House because in the previous debate, which of course was three years ago, I had given misleading figures to the House which were obtained from the Legislative Council Statutory Rules and Instruments Paper No. 5. It was at that point that I discovered that the paper itself was inaccurate. In conclusion I wish to make it clear to all honourable members that the amendment I am suggesting will affect only statutory rules published in the *Government Gazette* after the commencement of the proposed Act. In 1988 I introduced my private member's bill only after consultation with the then Attorney General. The Attorney General in 1988 certainly did not believe that my private member's bill was necessary. He believed that the present position was suitable and should continue. I did not accept the Attorney General's argument then and I cannot accept the Attorney General's argument now. It is totally wrong that so many statutory rules have not been tabled, for the reasons I have just outlined. That is why I introduced my private member's bill first in 1988 and reintroduced it in October 1990. All that my amendment will do is to bring this House into line with the Senate. This House has the same powers as the Senate and if it is to be considered as a true House of review - and certainly over the past few years it has become more fully a House of review than it was when I was first elected 10 years ago - it is quite proper that we should follow the Senate's procedures for the tabling of statutory rules and regulations. I commend the bill.

Debate adjourned on motion by the Hon. R. S. L. Jones.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! It being 4.15 p.m., proceedings are now interrupted to permit the Minister to move the adjournment motion if desired.

The Hon. J. P. Hannaford: No, I do not so desire.

CORONERS (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

The Hon. ELISABETH KIRKBY [4.15]: I move:

That this bill be now read a second time.

Again this is a private member's bill which I introduced originally on 7th December, 1989. After Parliament was prorogued on 25th October, 1990, I introduced the bill again. So for the third time I am attempting to move to have debate on what I believe is a very important subject. In the subsequent two years, because of some appalling tragedies that have occurred in this State, there has been great discussion in the media, at public seminars and forums by leading organisations involved in criminology and legal affairs in this State about the necessity for amendments to the Coroners Act. I wish to bring again to the attention of honourable members some concerns that were raised with me before I worked on this piece of legislation, with the concurrence and detailed assistance of the Bar Council. On 10th October, 1990, a seminar was held in Sydney

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under the auspices of the Institute of Criminology. At that seminar Michael Hogan of the Public Interest Advocacy Centre delivered a paper dealing with the problems of working towards a new coronial system for the 1990s. During his delivery of that paper he said:

The first problem concerns whether or not a jury will even be empanelled for an inquest. At present, a jury is not mandatory in cases of deaths involving state agencies. In the UK, both the Broderick Committee and the Home Affairs committee recommended that juries be mandatory in cases of deaths in custody, and given effect to in an amendment to the 1982 UK Administration of Justice Act.

Mr Hogan posed the question: why should this not be the case in New South Wales? He continued:

Another area of concern is the problematic nature of the role of the jury. This is evident in a number of ways. It is unclear both in law and in practice in New South Wales whether juries can ask questions, request the recall of witnesses, or request the reception of evidence of persons not so far called. Also, whilst it is accepted that a jury may add a rider to its verdict, this has no statutory basis. Further, there is little guidance given to them to assess such a function. In Victoria there are express provisions about the role of a jury in inquests.

Michael Hogan also covered the relationship between the coronial system and the criminal justice system. He believes this is a very vexed relationship. He said:

This arises from the coroner's powers to terminate an inquest and refer the papers to the Attorney General for a decision whether to prosecute a known individual. Prior to the 1989 amendments, the coroner was supposed to terminate as soon as a prima facie case arose. This led to a number of problems and was not always complied with. The old section 19 was subject to not-so-muted criticism by the Court of Appeal in *Attorney General v. Maksimovich and Anor* (1985) and this time the court considered the State Coroner of sudden termination without reasons, the secret transmission of decisions to the Attorney General, and secret decisions about whether to lay charges, as arguably in breach of the public interest and natural justice. The Court felt compelled by the statutory language to uphold the scheme. The section was amended last year to allow an inquest to run its full course. It is my tentative view that coronial and criminal jurisdictions should be entirely separated.

I believe now, as I did in 1990, that a full study of Michael Hogan's paper would be of value to honourable members. At that same seminar a paper was given by the Deputy State Coroner, Mr Derrick Hand. At that time he discussed the evidence of the State Coroner. He started by saying:

The appointments of State Coroner and Deputy State Coroner in August, 1988, have revolutionised coronial law and practice in the State of New South Wales.

This optimistic view of the situation is not shared by many other legal authorities in the State and certainly is not the view of the Bar Council. Mr Hand continued:

The innovation was modelled upon the Victorian system, and in effect makes the State Coroner responsible for the oversight of all coroners and their cases within the State itself.

He continued:

A system has been set up whereby all deaths reported to coroners in this State are notified to the State Coroner, and this is now a statutory requirement. The State Coroner has power to assume jurisdiction in any case, and the result is that he or his Deputy make regular visits to other

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courts where they hear inquests or inquiries into the more difficult and lengthy cases reported to coroners. Most deaths in custody are dealt with in this way, and there were 25 of those in 1989.

I should like all honourable members to reflect upon that statement: as recently as 1989 there were 25 deaths in custody. It is now 1991 and honourable members will be aware that in the intervening two years there have been further deaths in custody. In 1989 the Deputy State Coroner said:

In the first six months of 1990, the State Coroner or the Deputy State Coroner heard cases at a number of country centres.

He continued:

Investigations on behalf of the Coroner are carried out by Police. While it is sometimes suggested that a body other than the Police should perform this function, no one has indicated from where this force would be recruited. The Police Force -

That refers to the police force as it was then:

- is a disciplined body with well-established lines of authority. It has access to vast resources, including finance, transport (land sea and air), manpower, expertise (fingerprinting, ballistics, document examination, criminal records) and special purpose squads. In most cases it is the best and indeed the only body able to carry out a proper investigatory role.

The Deputy State Coroner finally raised the problem of social issues. He said:

Especially in recent years there have been representations by pressure groups to the effect that inquests should take account of and make recommendations regarding issues of a wider social significance than are customarily considered, and beyond what appears to be envisaged by the Coroners Act. The targets of these proposals are the usual bodies which come under fire from such quarters, like Police, Prisons, doctors and hospitals. Areas of concern are the arming of Police, Police motor vehicle chases, use of shock treatment in psychiatric hospitals, the adequacy of medical treatment of prisoners and such like. While one makes recommendations aimed at improving systems on a reasonably regular basis, we usually resist proposals that coroners should attempt to instigate sweeping social change on the basis that the matters raised are not really those to be determined by a single coroner, but rather by the elected government.

I question that statement. That is why I have been working for some time on this private member's bill. I believe that some of those matters should be determined by a single coroner, and that is why I am putting the matter on the public record. Over the past two years the Coroners Act has been amended; but it has not been amended to meet the needs of a great many legal authorities in this State. At the seminar to which I referred a paper on the role of the coroner was given by the former Attorney General. He said:

The State Coroner has just completed a review of the Coroners Act and his report is being circulated to a number of organisations for comment. It is hoped that recommendations arising from that report will be introduced into Parliament in the very near future.

At that time I asked the Attorney General if it would be possible to look at the review of the Coroners Act prepared by the State Coroner before considering the recommendations which at that time the Attorney General apparently intended to introduce into the Parliament. It has not been possible for me to do so. I begin to wonder whether the review talked about by the former Attorney General has ever been completed. Prior to his resignation from the Parliament I discussed the matter with him informally on several

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occasions. I always received the same answer: that the report was still in preparation. Following the natural disasters and serious accidents, such as the Grafton bus crash that I referred to, I appreciate that the coroner has had a heavy workload. I ask the present Attorney General whether the report by the Coroner has been completed; whether the recommendations are now in the public domain; and whether the present Attorney General is considering them and contemplating introducing government amendments to the Coroners Act. At that same seminar the Attorney General said:

I would like to mention briefly that discussions are taking place between the Attorney General's Department, the Police Department and the Department of Health concerning a revamp of forensic science services. It is hoped to establish a new co-ordinating body to organise the provision of forensic services throughout the State.

We are still waiting for that new co-ordinating body to organise the provision of forensic services throughout the State. Questions have been asked in this Chamber on many occasions about updating forensic services. Many suggestions have been put forward by academics from the University of Newcastle and the University of Sydney about the need to co-ordinate forensic services. I have been dealing with this problem now for more than two years, but so far as I am aware we are still in the stage of holding discussions. Nothing has changed. A professor of forensic science suggested to the Hunter task force more than 12 months ago that an institute of forensic science be established at the University of Newcastle to act as an overall controlling body for all forensic science examinations conducted in the State. At that time I said that it was wrong that we did not have an institute of forensic science in this State, as do other States and other countries. Since then a similar suggestion has been made by, I believe, a leading forensic science expert from the University of New South Wales.

The Government has not acted upon that suggestion though it may be considering the suggestion favourably. Many other serious events have occurred that have required forensic tests to be carried out. The establishment of such an institute is of paramount importance. I instance the Chamberlain case where the inadequate forensic evidence, which was later found to be flawed, resulted in Mrs Chamberlain spending many years of her life in a Northern Territory prison. Things of that nature should not be allowed to continue. Once again I emphasise the need for amendments to the Coroners Act. I hope by once again putting my bill on the table of the House the Government will find time to take action. At the very least I believe that with the new administration, a new Attorney General and a Minister for Justice, it will now be possible to insist that, if the Coroner's report has not been completed, it be completed without further delay and be made available to the public so that its recommendations can be considered carefully by relevant legal authorities in this State and by members of this Chamber and the other place. In view of the fact that other members wish to place

their private members' legislation before the House, I do not intend to take up more time by continuing with my second reading speech. However, I seek leave of the House to incorporate the remainder of my second reading speech in *Hansard*.

Leave granted.

This bill represents response to repeated complaints by individual citizens spanning more than 30 years. The first schedule to the bill seeks to amend the Coroners Act 1980, and the second schedule to the bill seeks to amend the Jury Act 1977. The bill also provides for a further inquiry in relation to a fire involving the home of Edgar John Azzopardi and the payment of compensation to Mr Azzopardi. Traditionally and still in accordance with the present statute, the coroner's role is to investigate matters coming within his jurisdiction. This is a personal duty and he should take charge of the investigation and control it. However, through this century this has not been done in New South Wales. Instead the coroner has allowed the control of investigations to pass into the

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hands of the police, partly as a result of their not being involved in the investigations in practice and partly because coroners are either appointed from the ranks of petty sessions officers and accordingly are trained in petty sessions procedures or, alternatively, are stipendiary magistrates. I am aware that some coroners would deny that this is so, but in reality coroners in country areas have no personal staff and they have no effective means of conducting investigations on their own. Accordingly, they are obviously dependent upon the police. To a large measure, therefore, they exercise only a nominal role in relation to investigations and spend the bulk of their time presiding over inquests and inquiries - sitting, in fact, as evaluators of evidence rather than as inquisitors.

Unfortunately, the legislation enacted in 1980 did not eliminate complaints and there has been growing evidence of dissatisfaction with the coronial system. Indeed, it is difficult to point to an inquest or inquiry into a controversial death or fire during the past nine years that has not been followed by public outcry and demands for the establishment of a royal commission or further inquiry. These complaints about the inadequacies have come primarily from citizens who have believed they were denied justice. But there has also been detailed criticism of the existing legislation, such as that prepared by the Public Interest Advocacy Centre on 29th April, 1988 - a comprehensive document of some 18 pages outlining defects in many areas within the coronial system. Therefore, it is unfortunate that, in spite of the long-standing and detailed criticism of the existing legislation, the Government proposes to make little more than cosmetic changes to the Coroners Act in its bill - the Coroners (Miscellaneous Amendments) Bill. The provisions of that bill do not attack and will not resolve the fundamental weaknesses in the system, whereas the bill that I now introduce does address those weaknesses.

Complaints by dissatisfied litigants fall into four main categories. First, the present practice of coroners of delegating the conduct of inquiries into deaths and fires to members of the police force and refusing to start a hearing until the police have completed their inquiries entails unreasonable delays which inhibit proper investigation and unfairly prejudice those who wish to be represented at such hearings. The delay, particularly in the case of controversial deaths, is often so long that the trail is cold by the time the hearing commences. In the meantime, those wishing to take part have not been given an adequate opportunity to ascertain what has been done or to make any input into the investigation. Second, and critically, the ambit of the inquest into a death or inquiry into a fire as framed by the present statute is so narrow that the real issues raised are not litigated.

Third, the limited right of representation before coroners impedes the adequate investigation of matters coming before them and limits the ability of those represented before a coroner to put their case fairly and fully. Finally, and most importantly, although more commonly than not at least one party is dissatisfied with the findings made in a controversial inquest or inquiry, there is no satisfactory mechanism for an appeal. At the same time it is difficult to take advantage of the provisions in the existing legislation which provide for the holding of a further

inquest or inquiry. Moreover, a further hearing is not an adequate remedy for those who would like to test coroners' findings on appeal.

The bill that I have introduced is designed to address these complaints by enlarging the rights of those who appear before coroners by widening the ambit of the inquiry, increasing the role of the coronial jury, and providing a right of appeal. The fundamental inadequacy in the present Act is that the scope of a coroner's inquest or inquiry is far too narrow. Throughout the past 20 years, virtually every controversial death has led to assurances being given by Ministers of the Crown that there will be a comprehensive inquiry before a coroner. However, in reality, when such an inquiry commences coroners adhere strictly to the provisions of the Act, which all but preclude a wide-ranging investigation.

Section 19 of the existing Act requires that if at any stage of proceedings before a coroner the evidence so far adduced establishes a prima facie case for an indictable offence, the coroner must terminate the inquiry and forward the papers to the appropriate authorities to consider whether the offender should be indicted. Though parties have been assured that the matter will be determined by a jury, all too often the coroner announces that there is sufficient evidence that an indictable offence has been committed, the jury is peremptorily discharged and the inquest terminated. Many of the issues that parties sought to raise have either never been addressed or have been left inadequately answered. Even if an inquiry proceeds to completion, the terms of the existing statute require a jury to be directed to return a very narrow verdict. Thus, the presiding coroner directs

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the jury that many of the issues sought to be raised during the hearing fall outside the scope of the statute and may not form any part of the verdict. Once again the parties who have sought to litigate these wider issues feel cheated, and jurors who have spent several days listening to evidence feel that they have taken part in an elaborate judicial farce.

The extensive directions that indicate the limited scope of a rider, and the limited use which can be made of it only serve to convey an impression to the jurors and those assembled in the courtroom that any rider will have very little effect, in practice, and this reinforces the impression that no real purpose is being served by the jury in the proceedings. In the case of a death, section 22 of the present Act requires a finding to be made as to the identity of the deceased, the date and place of his death, and except where someone is committed for trial, the manner and cause of such death. Councillors will realise immediately that in almost every inquest there is little doubt as to the identity of the deceased or as to the date or place of death and the real controversy will typically relate to the manner and cause of death. However, far too often, coroners have adopted a very restricted construction of what is relevant to determine the manner and cause of death, and thus many issues which an ordinary citizen would regard as important and which are important, are not adequately investigated.

In the case of a fire, section 22(2) of the existing Act provides for an inquiry as to the date, place and circumstances of the fire. Once again, there is usually no dispute as to the date and place of the fire. In controversial cases the dispute centres around the circumstances in which it began, or was fought. Far too frequently, however, coroners interpret section 22(2) narrowly, and matters which parties appearing before the coroner would regard as important are not investigated. I am sure all honourable members will be only too aware that it is not uncommon in relation to controversial deaths and fires for the inquiry to involve significant attacks upon the integrity or efficiency of members of the public service, mainly police officers, but on occasion officers of various other parts of the civil service.

In the case of hospital deaths, the proceedings will often involve challenges upon the probity and professional competence of medical practitioners and hospital staff. Naturally, those charged with the defence of those persons are concerned to take advantage of the limited scope of the existing legislation. For years, Premiers and Attorneys General have promised those

concerned about a controversial death or fire that there will be a "wide-ranging inquiry". However, when that inquiry is held, all too often the coroner has declined to admit or consider evidence which falls outside the narrow ambit of the existing statute. Therefore, those denied an opportunity to adduce evidence in relation to the wider issues raised feel cheated, and they complain that justice has been denied to them. Again and again proceedings before a coroner have been followed by long-running campaigns in the press and in this House to have the matter re-investigated by way of royal commission.

The scope of the existing legislation is defended on the basis that a wider inquiry will incur more cost. I would respond to that by saying that had there been a wider inquiry before the coroner, it is probable that governments would not have had to meet the ultimate expense incurred in relation to the Azzopardi case, the Chelmsford Hospital inquiry, or the present Royal Commission into Aboriginal Deaths in Custody, and police corruption would have been exposed at an earlier time. Accordingly, the legislation now introduced makes the following provisions. The amendment of section 13 under item (2) of the first schedule of the bill will be amended by substituting for the words "an inquest concerning the death or suspected death", the words "to inquire into and report upon the circumstances surrounding such death or suspected death, including any question of negligence, malpractice, misconduct, or criminal conduct by any person in relation to the same, and any means of preventing a similar death". It will be seen that this amendment gives a much greater reach to the area over which an inquiry may range. Honourable members will appreciate that it is in relation to the surrounding circumstances, rather than the narrow determination of the cause of the death, that the great forensic contest usually occurs in relation to controversial deaths.

Turning to the most recent controversial death, that of the late Mr Gundy, the real area of concern and of public interest related not so much to the precise circumstances of his death, but rather to the organisation and deployment of the specialised police team which was concerned in that unfortunate event, and the general police response to incidents alleged to involve members of the

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Aboriginal community. Section 13(3)(h) will also be amended by clause 2(b) of the first schedule to increase the range of deaths falling within the jurisdiction of a coroner, by requiring inquests to be held in relation to deaths within detention centres, within places where children are held in residence, or in places where the intellectually handicapped are held or detained, and where deaths occur during the course of police operations. There is some overlap between the wider range of institutions which will be included within the scope of the amendment and the existing provisions of section 13(3)(h), but the amendment is required as now formulated in order that it may cover some institutions which presently fall outside the scope of the existing definitions in the sub-section.

This amendment is also based upon criticisms of the existing statute, as set out on page 7 of the Public Interest Advocacy Centre's report of 29th April, 1988. We wish to ensure that all deaths involving those detained, or in an institution, come within the coroner's jurisdiction. I turn now to the amendment of section 15. Item (3) of the first schedule will amend section 15 to provide for a much wider inquiry in relation to fires. As amended it will enable the inquiry to consider questions of negligence, malpractice, misconduct, or criminal conduct, and the width of the inquiry in relation to the methods of extinguishing, controlling and prevention of fires is also extended. I now turn to the amendment of section 22. Traditionally, coroners have not inquired in relation to questions of civil, as distinct from criminal, negligence. This leads to the question of civil negligence remaining unresolved at the conclusion of the inquest or inquiry. This narrows the scope of the coronial inquiry, but the omission to inquire into civil negligence, whilst at first glance helpful to insurers, really adds to the cost and delay of any subsequent civil proceedings, because the matter has to be re-litigated.

The legal system functions best when the initial inquiry into the facts determines, in substance, all of the factual issues relating to the incident. In the long run, civil litigation arising out of accidental death or fires is more likely to be settled, and will more probably be settled earlier, if questions of civil negligence are dealt with in proceedings before the coroner. It is my contention that the legal system as a whole would operate more efficiently and effectively if these questions were explored during an inquest. In the vast majority of cases no additional evidence would be required, and virtually no additional time would be taken to resolve these issues, but a finding on the issue of negligence would place pressure on the defaulting party to resolve any civil proceedings at an earlier stage than is now done, and to that extent, would help widows and children to recover compensation. Accordingly, item (7) of schedule 1 will amend section 22 to enable a coroner or jury to make findings as to negligence, malpractice, misconduct and such other matters as seem appropriate.

The amendment of section 22 is central to the resolution of the problems which arise from the narrow ambit of the inquiry, as framed by the existing statute. Under section 32 of the existing Act, any person seeking to appear as a party before a coroner must satisfy the coroner that he has "a sufficient interest", and he may be represented before a coroner only by leave. If a party represented at an inquiry wishes to obtain the attendance of a witness at such an inquiry, he must apply for the issue of a summons under section 35 of the Act; but it is for the coroner to decide whether such a summons shall be issued, and, in practice, generally coroners will not issue such a summons unless the person seeking it has obtained a written statement from the witness whom it is sought to bring to court. It will be readily understood that there are many situations in which people represented at an inquiry desire the attendance of a witness who they honestly, sincerely and correctly believe has information relevant to the inquiry, but the witness - who fears attendance at such an inquiry may expose him, his department, or a fellow servant to criticism - is most reluctant to appear, and, accordingly, declines to give a written statement.

The bill seeks also to amend the organisation of the Coroners Act in a number of ways. First, item (1) of schedule 1 seeks to insert a wide definition of organisation into the definition section of the Act. As a result of this amending provision almost all voluntary organisations, public interest groups, trade unions, and Government entities will be entitled to representation before an inquest. Second, item (8) of schedule 1 will amend section 32 to eliminate the need for leave to appear. Instead, it will provide that any person or organisation may appear or be represented at an inquest or inquiry.

I seek now to address the proposed amendments to section 17 of the Act. Item (4) of schedule 1 will amend section 17 of the Act to allow any person or organisation intending to appear

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or to be represented at an inquest or inquiry, to serve a written request upon the clerk of the court requesting the coroner to hold a preliminary inquiry. At that preliminary inquiry, the parties may apply for access to such statements and documents as are held already by the coroner. The advantage of this provision is that it will enable those seeking leave to appear before a coroner to gain access, at an early stage, to material already collected. This will no doubt cause some heartburn for police, particularly in relation to the risk of alerting possible suspects, and in relation to confidential material contained in police running sheets. It will be said, no doubt, that running sheets compiled by police in relation to inquiries often contain matters of little evidentiary value but would be extremely embarrassing to the persons named therein, if they were made public. To meet this problem the proposed amendment provides that the coroner may withhold information that would impede or prejudice a continuing investigation or in relation to which the probative effect is outweighed by the prejudicial impact.

The provision that will allow parties to have earlier access to material gathered so far is intended to overcome a problem created by the delay that flows from the delegation of investigations to the police force. Item (9) of the first schedule will amend section 35 of the

principal Act by widening the ability of parties to bring witnesses before the court. The amendment is similar to the provisions of section 61 of the Justices Act. The provisions of section 61 of that Act have existed since 1902 and have not given rise to any difficulties in their day-to-day practical operation. The proposed amendment of section 22 will enable the coroner, or a jury, if there be a jury, to make such further and other findings as to the facts and circumstances relating to a death or fire - including findings as to negligence, malpractice and misconduct - as they consider appropriate. The concept of a jury is an ancient and honourable one. Agitation for jury trials in New South Wales began in 1791 and there have been trials by jury in this State since 1825. Coronial juries have been used in New South Wales since 1904. However, in 1904 the Coroners Court Act limited coronial juries to cases where a jury was requested by a relative of the deceased, the secretary of a trade union, or the Minister - a form followed in substance in each succeeding Act and embodied in section 18 of the present Act.

Trial by jury, where there is great controversy, is preferred for the following reasons: a jury provides a constitutional protection against potential judicial prejudice, which is not lightly to be curtailed; a jury is widely constituted, with all citizens entitled to vote being eligible for jury service; the provision of a jury is a practical and symbolic expression of a democratic institution and gives reality to a trial of issues of fact by one's peers. Though it is often contended that juries cannot try issues of great complexity, the reality is that the law, even in its present form, reserves to criminal and civil juries the most complex and difficult factual decisions. The proposed amendments will increase the role of a jury. If a jury is summoned, it will be for the jury to decide whether there is sufficient evidence that an indictable offence has been committed. The existing arrangement embodied in section 19 of the Act provides that a coroner may terminate a hearing before a jury if he is satisfied that there is *prima facie* evidence of an indictable offence, which erodes the function of the jury and takes away from it one of the central issues in the proceedings.

I draw the attention of honourable members to schedule 2, which provides for an amendment to the Jury Act 1977 to give those appearing before a coroner the same right to participate in the selection of a jury as they would have in a civil trial. The existing legislation does not provide those rights, but there is no reason they should not have them. As the Act states, section 18 confers only a limited right to have a jury summoned. Effectively, only the Minister, a relative or a secretary of a trade union to which the deceased belonged can request a jury. There seems to be no real justification for this limitation. In the Supreme Court and the District Court any party may request a jury in those categories of cases that may be tried by juries. There is no reason why the same rules should not apply to proceedings before a coroner.

I now refer to that portion of this bill that relates to Mr Edgar Azzopardi. It is well known that Mr Azzopardi has been fighting for justice for many years. and that as yet he has not received justice. Though it may be too late in Mr Azzopardi's case, I believe some compensation should be paid to him for the gross injustices he has endured in the past. For that reason I have included reference to his name and the problems he has faced over a period of 20 years. The bill provides that the amendments contained within it shall apply to inquests that were commenced prior to 1st January, 1990, and which have not been concluded. The Act must be amended to ensure that

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the provisions apply to all proceedings pending when the bill is enacted. Obviously the precise formulation depends upon the passage of this bill. I thank the House for giving me the opportunity to deliver my second reading speech on this bill and to outline briefly the detail of its provisions.

I commend the bill.

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

RAPE AND SEXUAL ASSAULT DAMAGES BILL

Bill introduced.

MEDICALLY ACQUIRED AIDS VICTIMS COMPENSATION BILL

The Hon. Elaine Nile: In order to give effect to drafting changes made by Parliamentary Counsel, I seek the leave of the House to amend my notice of motion by substituting the long title as follows:

An Act to provide for the payment of compensation to persons who have contracted Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome from infected transfused blood or infested blood products.

Leave granted.

Bill introduced and read a first time.

ENDANGERED FAUNA (INTERIM PROTECTION) BILL

Bill received and read a first time.

Suspension of certain standing orders agreed to.

Second Reading

The Hon. J. P. HANNAFORD (Minister for Health and Community Services) [4.38]: I move:

That this bill be now read a second time.

The Endangered Fauna (Interim Protection) Bill has been introduced in order to provide interim arrangements to deal with industry as it is affected by a recent decision of the Land and Environment Court and a decision of the Court of Appeal and as a consequence of the fact that the Legislative Assembly today disallowed regulations that would have allowed industry that is affected by existing legislation to continue to operate. Whilst the Endangered Fauna (Interim Protection) Bill has within it provisions which are not necessarily acceptable to the Government and whilst the bill is not a totally satisfactory bill, it provides some interim protection of the environment and industry. I am able to indicate to the House that, during the period of the operation of this legislation, the Government will be preparing for presentation to the Parliament a comprehensive package of legislation relating to the protection of endangered fauna so that the House will be able to consider in due course a total package of legislation which is likely to give much more comprehensive protection than that provided in the interim bill. The Government supports the legislation and commends it to the House.

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The Hon. JAN BURNSWOODS [4.40]: It is with great pleasure that I rise to speak in support of the Endangered Fauna (Interim Protection) Bill. It is a very important day in the Parliament and in the State of New South Wales. As the Minister for Health and Community Services has said, the bill has been debated for most of the day in the lower House. The regulation was disallowed at around 10 o'clock this morning and since then the other House has been debating the Endangered Fauna (Interim Protection) Bill. It has been quite heavily amended since we saw it a few days ago, mostly as a result of extensive discussions between the Australian Labor Party, the non-aligned Independents and various members of the Government. Basically, the Minister for the Environment, the Independents and the Labor Party have reached various agreements and produced a bill which we are certainly happy with, although it is not perfect. The National Party, though, as has been frequently the case in the last couple of weeks, has been very unhappy. I congratulate the Minister for the Environment on achieving what he wanted, despite the objections of some members of the National Party. My only small regret on this day is that, because the debate had to go on for so long in the other place, the

casualty was the Moonee Beach Nature Reserve Bill, which I had hoped would also be dealt with today by both Houses. That is a debate we are yet to have.

Australia has an appalling history in the extinction of native fauna species. We have lost 20 mammal and 10 bird species, more than any other continent. Australia is renowned for its unique flora and fauna, and we owe it to future generations as well as our own to preserve the biodiversity of the continent. Over the last several years there have been increasing demands from the community that governments act to protect endangered species. Victoria has its flora and fauna guarantee and until recently New South Wales had the National Parks and Wildlife Act. The Stein judgment on the Chaelundi forest fleshed out the laws made some years ago to protect native fauna and in particular endangered species. However, on 2nd October the Government gazetted a special regulation exempting all public authorities and persons from the endangered and protected fauna provisions of the National Parks and Wildlife Act.

The Endangered Fauna (Interim Protection) Bill is a balanced approach to the fundamental issue of the protection of endangered species and the impacts of economic activity. It is the result of consultations with the environment movement and the timber industry, consultations that the Government should have undertaken when it was considering its knee-jerk and extreme action in making the regulation under special *Government Gazette* 138. The Endangered Fauna (Interim Protection) Bill would not have been needed if the Government had taken a calm and rational approach to the Stein judgment on the Chaelundi forest. Instead it chose to listen to an orchestrated campaign of hysteria. This bill is part of a package to save endangered fauna in New South Wales. One part was the disallowance of the regulation this morning. The other is a process of public consultation about a proposed threatened species conservation Act next year. The Opposition certainly will be putting its proposal on the table for public comment.

The result of the Government's regulation has been to open a window of opportunity to all those developers and public agencies that wish to destroy endangered species' habitats. The community has had to fear for the future of such species as the long-footed potoroo, a miniature kangaroo in the southeast forests; the eastern quoll, a native cat under intense pressure from habitat modification; and the sooty owl - a magnificent creature which is suffering because of logging of the old growth forests. The Hon. D. J. Gay will be pleased to find out that, so far as I know, at this stage wombats are not endangered. The Government has failed to ensure that endangered species and their habitats are protected. Extinction is a matter of great gravity and the Government's

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interim package, announced on 12th November, did nothing to advance the cause of endangered species protection. The Government said that it wishes to return to business as usual while long-term measures are developed. However, business as usual was the State's wildlife protection laws being flouted by bodies such as the Forestry Commission.

The Government's proposal to amend the Environmental Planning and Assessment Act so that the Act will be strengthened by ensuring that the consent of determining authorities is required to consider any adverse effect of proposed development on the habitat of protected and endangered fauna will not protect endangered species. This is because bodies such as the Forestry Commission are, under the Act, proponent, judge and jury. They are the determining authorities for their own proposals and history has shown that they cannot be trusted with the fate of endangered species. The decision by the commission to log Chaelundi forest, with its enormously important habitat for a number of endangered species, is enough evidence of this. The Endangered Fauna (Interim Protection) Bill separates the proponent from the decision to harm endangered species. It recognises that those who drafted the National Parks and Wildlife Act meant the National Parks and Wildlife Service to be the pre-eminent wildlife conservation body in New South Wales. This concept was wholeheartedly endorsed by Judge Stein in the Land and Environment Court and the three appeal judges in the Court of Appeal decision.

The drafting of this bill has been based on three principles. First, it is irresponsible to create a window of opportunity for the destruction of endangered species. By definition the locations of

these species and their habitats are rare. It will not take much activity to cause irreparable damage. Second, bodies such as the Forestry Commission, contaminated as they are with a one-eyed approach to timber-getting, should be separated from the decision to harm endangered species. Third, consultation with the affected groups can lead to a balanced and informed decision. The bill is essentially that proposed by the environment movement. However, the Australian Labor Party drafted further amendments after discussions with the timber industry. That industry has special problems because it more than any other economic activity in New South Wales operates in an environment where it is likely to come into contact with the bulk of native fauna. We have taken account of the industry's concerns about the phasing in of the licensing and fauna impact statement measures in the bill and concerns about the need to be reasonable in the demand for information.

The bill is divided into two schedules, the first amending the National Parks and Wildlife Act and the second amending the Environmental Planning and Assessment Act. A key concern in the drafting of the bill has been to craft the wildlife powers clarified by the Stein judgment and confirmed by the Court of Appeal into a process that does not overwhelm the National Parks and Wildlife Service with applications for licences and directs the exercise of environmental protection powers to those situations where there will be a significant effect on the State's wildlife heritage. The bill also creates the power of stop work orders by the Minister or Director of the National Parks and Wildlife Service. This power will be used in emergency situations and is necessary because the survival of a species can be on a knife edge and quick action to save it may be needed. The bill establishes two thresholds for the use of wildlife powers. It first relates to endangered, vulnerable and rare fauna. While retaining the power of the National Parks and Wildlife Service to grant licences to take or kill endangered species, it establishes a scientific committee to review schedule 12, which lists endangered fauna. It is acknowledged by scientists and environmentalists that the current schedule is out of date and needs significant amendment. The result of the review will be to reduce the number of species on the list in accordance with accepted scientific criteria for listing species as

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endangered, vulnerable or rare. As there will be fewer species on the list, there will be fewer applications for licences than would have been the case under the old schedule.

The second threshold applies to protected fauna. These are native animals that are not endangered, and the National Parks and Wildlife Act recognises that there does not need to be so tough a level of protection as for endangered fauna. The bill establishes that a fauna impact statement will only be required where "there is likely to be a significant effect on the environment of a protected species". This test matches that found in the Environmental Planning and Assessment Act. While the Director of the National Parks and Wildlife Service is required to set the terms of reference for the statement, the usual consent procedures under the Environmental Planning and Assessment Act subsequently occur. The result of the "significant effect" test will be that relatively few former impact statements will be required but there will be a greater level of scrutiny of those activities that have the potential to cause significant damage to the environment. This process supplements the Environmental Planning and Assessment Act.

Some concern has been expressed about the doubling up of environmental impact statements and fauna impact statements. A provision has been inserted in the bill that removes the need for a separate fauna impact statement if an environmental impact statement that addresses the same matters is also required under the Environmental Planning and Assessment Act. There is also some concern that there will be undue expense involved in the production of fauna impact statements. However, one of the proposed amendments of the Opposition specifies the qualification that only what is reasonably possible will be done. A month or so ago the Premier implied that 10,000 licence applications would be required for this year alone. The Opposition believes the Premier was not addressing the provisions of this bill. It seems that he was quoting from National Parks and Wildlife Service advice immediately subsequent to the Stein judgment. No such number of licences will be required. In the southeast forests the Forestry Commission produces an environmental impact statement every 12 to 13 months. Appendix 4 of the 1990 environmental impact statement contained small area environmental impact statements of several compartments each. There were 28 small environmental impact statements in total. Of that number only seven noted rare or threatened fauna. If

this is taken as a guide for the southeast of the State, only seven applications for licences would have to be made. The cost in administrative terms will not be prohibitive. The bill includes also a user-pays system for licence applications. The National Parks and Wildlife Service can, therefore, raise the funds to process applications and not put additional pressure on the budget of the service - a budget already badly squeezed by the Government.

The licensing process gives the National Parks and Wildlife Service a rightful place in land-use decisions where endangered species are involved. It is analogous to the pollution control licence process the Government endorses. The possibility of extinction of a species is, as I have said, of the greatest concern. No doubt the Government would like to submerge that possibility in a jungle of resource security laws and the everyday planning approval process. The Opposition rejects this approach. A valuable effect of the bill will be to encourage far more effective consultation between Government, conservation and resource-use bodies. They will need to talk to each other rather than dismiss the endangered species view of the National Parks and Wildlife Service. The service will not be compelled by the bill to refuse applications. It encourages recovery plans and allows conditional consents. Further, there is the added provision for appeals by the applicant or any objector if they are dissatisfied by the director's decision on an application. We face a biodiversity crisis and we must meet it in a mature and balanced way. This bill will go a long way towards achieving that. Though not everyone is

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completely satisfied with the bill, it is an important step in the right direction. I pay particular tribute to the honourable member for Blacktown, the shadow minister for the environment, who has put an enormous amount of effort into the process that led to the drafting of this bill. The honourable member, with the Independent members of Parliament and the connivance of the Minister for the Environment, has produced a series of agreements that have produced a very satisfactory bill.

The Hon. R. S. L. JONES [4.53]: On behalf of the Australian Democrats I support the Endangered Fauna (Interim Protection) Bill. I take great pleasure in doing so given that for 20 years I have been an active campaigner for the protection of the many species of animals with which we share this planet. I wish to say from the outset that the bill is not about bringing the reasonable economic activity of the State to a halt, as was claimed by many National Party members in debate in the other place. Nothing could be further from the truth. In preparing the bill the drafters were particularly careful to ensure that there could be no basis for such a claim. Many provisions of the bill will ensure that logging, farming and other activities important to the economy of this State will not be thrown into chaos and confusion. The bill makes a lie of the claim that environmental protection must always have a negative economic impact. It proves that we can both productively employ people to use wisely our natural resources and protect the unique and beautiful environment of this State. The bill is about substituting carefully crafted procedures, which have undergone a broad consultative process, for a rushed, ill-considered and probably illegal regulation made to defeat the express findings of Mr Justice Stein in the Land and Environment Court. Mr Justice Stein's judgment was upheld in the New South Wales Court of Appeal following the Government's unsuccessful appeal.

That the regulation is probably illegal has been documented by the Regulation Review Committee, which found that the Minister for the Environment did not give notice of the proposed regulation, did not undertake a regulation impact statement, and did not consult with affected interests and industry groups. The bill, however, has superior attributes as legislation as opposed to the disastrous regulation. It originated in the community as a result of the urgings of the New South Wales environment movement; it has been on notice to this Parliament for about four weeks; and it has been the subject of extensive consultation with the timber industry and all affected New South Wales government departments and agencies. The passage of the bill will achieve the reinstatement of the original intention of the New South Wales Parliament when it passed the National Parks and Wildlife Act in 1974. That intention was to subject people, businesses and government agencies whose work will affect the survival of protected and endangered species to the oversight and control of the State's expert wildlife management agency, the National Parks and Wildlife Service. It is a fact that this was the Parliament's intention. The Court of Appeal considered and ruled upon that question. In their judgment, Mr Justice Mahoney, Mr Justice Meagher and Mr Justice Handley stated:

There is, in respect of the land and things growing on it, clear indication of the contemplation and intention of the Legislature that the Forestry Act will apply to the areas in respect of which the National Parks and Wildlife Act will operate or will apply.

Their Honours went on to say:

It is, therefore, apparent that, in the enactment of the National Parks and Wildlife Act the legislators gave attention to the extent to which the Forestry Commission should be able to exercise its powers in areas falling within that Act. And, as we have said, the contemplation and intention was that, in general, the Forestry Commission should be able to exercise its powers in such areas

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and that the extent to which those powers should be able to be exercised there would be affected by the provisions of the National Parks and Wildlife Act.

Such an oversight, and, if necessary, power of veto, must be able to be exercised by the National Parks and Wildlife Service. This is not only desirable but necessary given the catastrophic track record of the Forestry Commission of New South Wales in its works that affect the habitat and populations of endangered species. Honourable members will recall my advocacy for sense and reason in the bitter disputes between the environment movement and the Forestry Commission in the debacles of the southeast forest dispute, in the North Washpool confrontation, and in the Chaelundi State Forest blockade. My appeals for sensible forestry operations, which do not threaten the survival of endangered animals, have fallen on deaf ears in the Government despite the judgments of the Land and Environment Court and the Court of Appeal in the cases of *Corkill v. Forestry Commission of New South Wales*. It is only through the enactment of this bill that there will be an avenue for such sense and reason to be applied. That avenue is through the system of the issuing of licences as set out in the bill, where the taking or killing of endangered species can be approved where such acts are fully explained and justified with full public accountability.

The need for the issuing of licences and the oversight of the National Parks and Wildlife Service has been demonstrated starkly in the past few years in the bitter disputes that I referred to earlier. Until this bill was drafted the Forestry Commission was prosecutor, judge, jury and executioner for many rare and endangered animals. It steadfastly ignored the requests of the National Parks and Wildlife Service and the pleas of the environment movement to spare these important animals from their imminent destruction by withdrawing logging and roadworks from important and sensitive habitat areas. For too long the Forestry Commission was of the view that the archaic Forestry Act of 1916 was the last word in laws that applied to or affected their activities. The commission has been progressively forced to reconsider this narrow view as a result of a series of court decisions throughout the past few years - particularly in the last 12 months - undertaken by Mr John Corkill on behalf of the Northeast Forest Alliance. It was this privileged position, from which the commission considered it was apparently exempt from laws that applied to everyone else, that the Forestry Commission sought to maintain in the preparation of the now defunct regulation published in the *Government Gazette* of 2nd October.

The passage of the bill will ensure that this narrow view has no further currency. The commission will be forced, as will anyone else who wishes to take or kill endangered species, to seek the consent of another agency, an independent wildlife management body - the National Parks and Wildlife Service - before any such activity can be contemplated. This is only as it should be, and how it always was. The procedures in the bill for the issuing of licences for taking or killing endangered species will be phased in over the next few months. In this way there will be no sudden, dramatic or traumatic effects on appropriate forest operations or other appropriate economic activities. Nothing will change in the forest, in the farm paddocks or elsewhere in this State with regard to jobs or economic activities undertaken in the next week or over the next few months. What must change from today, however, is the attitude and activities of the Forestry Commission. In the longer term industry now has

a clear signal that endangered species protection is an important consideration and it is now on notice that its activities must change to reflect this.

Before I conclude my remarks I wish to acknowledge the tremendous investment of time and energy which has been brought to bear in bringing this bill before this House. The House must recognise the work of peak environment groups, particularly the Australian Conservation Foundation, the Total Environment Centre, the Nature Conservation Council of New South Wales, the Northeast Forest Alliance and the Wilderness Society. Ms Sue Salmon, Mr Jeff Angel, Mr Peter Wright and Mr John Corkill deserve the recognition and thanks of this House, as does Mr Tim Robertson. Further, the work of two members of the legal profession, on a public good basis, needs to be recognised. Mr James Johnson, a solicitor in the Environmental Defender's Office, and especially Mr Tim Robertson, counsel for the environment groups, have been of invaluable service to the Parliament and to people and creatures of this State in exhaustive drafting and redrafting of this bill. My thanks go to all of them.

This is an interim bill only. It contains a sunset clause which effectively requires the enactment by 1st December, 1992, of comprehensive threatened species conservation legislation which will achieve long-term protection for all threatened animals and plants and will provide for ongoing measures to safeguard the extraordinary natural heritage values of this State. That legislation will provide for the preparation of species recovery plans, the listing of threatening processes, and a fund to finance these crucial steps. The development and adoption of that legislation will be the real achievement for this State. This bill is the first positive step along this crucial path. I support the bill.

Reverend the Hon. F. J. NILE [5.1]: On behalf of Call to Australia I support the Endangered Fauna (Interim Protection) Bill. I am pleased that agreement was reached in the other place among the Government, the Opposition and the Independents so that the bill could be debated in this House this afternoon. The important objects of the bill are set out in clause 2 of the bill and are as follows:

- (a) to provide urgently an objective scientific evaluation of the conservation status of fauna in New South Wales;
- (b) to divide species of fauna into endangered, protected and unprotected species;
- (c) to ensure endangered species of fauna are only harmed with the informed consent of the Director of National Parks and Wildlife;
- (d) to set criteria and performance standards for the giving or withholding of that consent and to guarantee fairness of treatment by providing an appeal on the merits to the Land and Environment Court;
- (e) to permit the Director of National Parks and Wildlife to recover the costs of the licensing system from users with a discretion to reduce any fees in cases of hardship or non-commercial uses;
- (f) to relax the prohibition upon harming protected fauna where consents and approvals have been issued under the Environmental Planning and Assessment Act 1979;
- (g) to ensure that in the future such consents and approvals are not given for activities without the impact of the activities on protected fauna being examined;
- (h) to give the Director of National Parks and Wildlife and the Minister an emergency power to stop work where protected fauna is at significant risk;
- (i) to update the list of unprotected fauna so that pests such as the Queensland Cane Toad can be harmed without liability;

- (j) to give interim protection to fauna and existing use rights to developers of land and public authorities pending the enactment of an endangered species law.

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The Government has given notice that it is preparing endangered species legislation. So far as we know, that will not be ready before March of next year. The decision in the Chaelundi case has developed a hiatus or left the situation in limbo. Something needed to be done to fill the gap before the Government's legislation was introduced next year. It seems that the legislation may not be ready in March and it may be December before it is introduced. I have issued a statement concerning the bill before the House. That bill has been amended and I believe those amendments are worth while. I announced in my statement that Call to Australia supported the interim bill in principle and that urgent action was needed by this Parliament to protect the State's vanishing wildlife species. The regulation brought in by this Government was a knee jerk reaction to the Chaelundi court decision. It was inappropriate and was criticised strongly by the Parliament's own Regulation Review Committee, on which the Government has a majority of members. In my press release I stated:

The Endangered Fauna Bill is a more sensitive and appropriate response which is supported by the mainstream environment movement. Its carefully balanced approach should also gain the support of both the Government and timber industry. It will allow the vast majority of economic activity to proceed unhindered, but ensure those developments that threaten endangered species receive special assessment and evaluation in co-operation with the N.S.W. Forest Commission and the N.S.W. National Parks and Wildlife Services.

I support the need to close the gate on blanket endangered species destruction, allowed by the Government's regulation and subsequent amendments. This bill should pass before the end of the year.

I believe the bill will be passed by this House today and will come into law. Call to Australia feels strongly that the environment is God's creation. In the beginning God created the heaven and the earth, and it was good. We are the stewards of God's creation. I am sure that concern is shared by other honourable members of this House. We have been consistent in our support of wilderness legislation, of legislation relating to marine mammals and to the banning of mining in national parks. We have an enduring concern for the plight of our wildlife heritage, in particular for endangered species because so many species of unique Australian wildlife have been eliminated.

I am pleased to have had the opportunity to consult with representatives of the environment movement in the past few weeks concerning this matter. I have been impressed with their sincerity and deep concern for endangered and protected species of wildlife. I accept their assurances of the necessity for co-operation so that whatever was done would not in any way destroy the forest or timber industry in this State, and that it was important to find a meeting point or common ground. I believe the legislation moves in that direction. I have had consultations also with the Forest Products Association and with the Forest Protection Society which are concerned about the effect of the legislation on their families and jobs. A large number of wives and mothers of timber industry workers are members of the Forest Protection Society and they are concerned and frustrated about some developments, though sometimes they are unaware of the details. Call to Australia shares that concern. We must ensure there is employment so that husbands can support families. These people want a fair go. The New South Wales Forest Products Association, which represents the timber industry, raised with me a proposal that the Government's legislation to be introduced next year be referred to a bipartisan parliamentary committee and that the committee brief be expanded to report on land use questions generally, to make recommendations on appropriate resource supply legislation, and to enhance endangered species legislation.

The Hon. D. J. Gay: That is a sensible suggestion.

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Reverend the Hon. F. J. NILE: I am pleased the Hon. D. J. Gay said that. The Government might take that suggestion on board as a serious proposal to take much of the heat out of the debate that has occurred where the timber industry and the environment movement have been used as political footballs. Confrontation is not in the best interests of the State, the environment or the timber industry. The proposed legislation may not come under undue criticism if parties to the debate can make submissions at open hearings of a select committee. The Government may produce a measure that suits every interested party but a parliamentary committee inquiry would make that more likely.

The Hon. D. J. Gay: It is not unheard of.

Reverend the Hon. F. J. NILE: The suggestion by the Forest Products Association about a bipartisan parliamentary committee should be supported. That approach was most successful on the gun issue and could be used to advantage in other controversies where polarisation of interested parties makes communication between them difficult. I have endeavoured to maintain an open door to both groups on each side of this issue. I have endeavoured, as on other occasions, to be a bridge between various interest groups - not to benefit myself or Call to Australia but to benefit the State - so that we might move forward without division, conflict or confrontation. The confrontation that has occurred on this issue in the south, north and other parts of the State, and in Queensland, is not in the best interests of the people and fauna of New South Wales and should be de-escalated. The Call to Australia group is pleased to support the bill. On 12th December I contacted the Forest Products Association to inquire about its latest position on the issue. I wish to put faithfully on record the last word, so to speak, of that association. The association, in a letter faxed to me on 12th December, acknowledged that a bill would be proceeding through the lower House and received in the Legislative Council, and stated further:

. . . there is still a major problem with respect to the processing fee for licences -

Amendments in the other place may have reduced that concern in part:

. . . Further, the situation still leaves the Director of the National Parks and Wildlife Service as a sole determining authority for land use matters in the State.

This, I believe, is an untenable situation, and the industry will continue to oppose it. Nevertheless, with the current intentions being with the lower House to rise today, there is no possibility of obtaining further amendments in the Upper House during this Session of Parliament as this would require the bill being sent back to the Lower House next year. This would leave the industry in an even more untenable situation, with a gap of some two months having no regulation in place.

That is a most important point. The regulation having been disallowed, it is vital that the proposed interim legislation be in place until the Government can produce a more finely tuned bill by next March or later next year. The proposed legislation may prove to be more effective than its opponents believe and could thus take pressure off the Government and allow it more time for consultation and for a parliamentary committee to investigate the measure in an open hearing and to consider submissions from all parties. That process should result in a proposal that will receive widespread support in this State. The Call to Australia group has much pleasure in supporting the bill.

The Hon. D. J. GAY [5.15]: I shall be voting for the bill.

The Hon. M. R. Egan: Enthusiastically?

The Hon. D. J. GAY: I support totally and enthusiastically the need for an endangered fauna bill.

The Hon. Ann Symonds: But do you support Tim?

The Hon. D. J. GAY: Most of the time. Though I support the objects of and need for an endangered fauna bill, I do not necessarily support this bill. Sadly, I have not been able to examine properly the ramifications of the bill, which was rushed through during last night after about 10 hours negotiations. I remember the Hon. Elisabeth Kirkby saying in this House that members had insufficient time to consider in detail the Industrial Relations Bill and its ramifications. Members had much more time to study that measure than the bill now being considered. The objects and aims of the bill are entirely honourable, but how will it be interpreted? I must voice my reservations and concerns about unemployment. The latest figures released show that the 10.5 per cent rate of unemployment is the highest this century. I am concerned that parts of the proposed legislation may infringe unnecessarily on both secondary and primary industry in an overzealous attempt to protect fauna. It cannot be said in good conscience that we should not do our best to protect endangered fauna from extinction, but overzealousness must be avoided. The sad genesis of the bill is a direct result of Bob Carr and the Leader of the Opposition in this House pursuing politics without heed to what is happening to the working people of New South Wales. I predict that pursuit of populist policies will remove Labor from the Australian Labor Party in its centenary year, because it is cynical and does not care about working men and women. Yesterday the Coalition for Economic Advancement sent a letter to the Hon. Bob Carr, Leader of the Opposition, and to ALP members of Parliament. Many member of the Labor Party are embarrassed by the thoughts expressed in that letter. The letter states:

Dear Mr Carr,

The Coalition for Economic Advancement, representing a wide range of industry interests covering the agriculture, forestry, mining, manufacturing and small business sectors protests at the reported action of your party in proposing to move to disallow the 'Chaelundi' regulation. We do not believe you have a satisfactory replacement package in order to protect existing jobs in industries open to challenge should the regulation be disallowed and thereby creating a void.

This is what happened this morning. The letter continues:

All existing land uses that, in the normal course of business may inadvertently 'disturb' endangered fauna will be left without protection, until alternative mechanisms are found to replace the current regulation. To allow any 'window' to exist between the time the regulation is disallowed and other legislation promulgated is a negligent action which will threaten employment, place on hold any proposals to expand existing operations in forestry, mining, agriculture and manufacturing.

It is to the credit of the Independents, the Labor Party and the Government that that window does not exist. The Hon. Jan Burnswoods said earlier that a lot of the credit for this "connivance" goes to the Hon. Tim Moore. The letter continues:

The coalition is concerned for the protection of endangered fauna and, for that matter, any endangered species whether flora or fauna.

[Interruption]

The Hon. D. J. GAY: It is interesting to note that a lot of noise emanates from honourable members opposite when anyone is talking about politics. For example, they

say: "Who is going to be Prime Minister? Who is going to preside over this mess?" But when we are debating something positive such as the creation of jobs, looking after the unemployed, or implementing policies, we do not hear one word. That was a typical outburst from honourable members opposite. The letter also states:

We cannot simply remain silent on proposals that strike at the heart of responsible, economic development. We are seeking to support responsible protection legislation: however, you do not seek to involve industry. Why?

Specifically, with respect to the Endangered Fauna (Interim Protection) Bill, we believe it has been drafted with little regard to its economic consequences, and the imposition of another approval layer or impediment to job creation in this State. The bill is confusing and will be administratively difficult to implement.

The Hon. R. S. L. Jones: Is this the letter from Mr Wisken?

The Hon. D. J. GAY: It certainly is the letter from Mr Wisken.

[Interruption]

The Hon. D. J. GAY: I did not say they were my views: I said they were the views of Mr Wisken whose organisation represents a wide area in the economic field. The letter from which I am quoting, which was sent to all members of the Labor Party, was obviously sent to the Australian Democrats. But I see that Reverend the Hon. F. J. Nile is indicating that Call to Australia did not receive a copy. Basically, Mr Wisken is voicing his concern. I know that a lot of members of the Labor Party share similar concerns and they would like me to put the concerns expressed by Mr Wisken on the record. The letter continues:

The uncertainty of gaining approval for projects or activities likely to impact on endangered fauna or their habitats will simply make NSW uncompetitive in attracting new investment. We are aware of a number of projects at feasibility stage or in the process of final environmental approval that, if it were to be considered under the scope of your proposed bill, would simply not proceed.

The administrative mechanisms included in your bill would eliminate any opportunity to 'fast track' significant employment generating projects, as proposed by the Labor Council of New South Wales.

The rural community, already in the grip of possibly the worst economic situation this century will be 'caught up' in the scope of this legislation. Normal farming and land clearing practices appear will be affected by this bill. It is ironical that land regeneration and soil retention programmes, aimed at protecting the environment, will be required to gain approval under this bill.

Those are just some of the concerns expressed by Mr Wisken. I will be voting for this bill.

The Hon. J. P. HANNAFORD (Minister for Health and Community Services) [5.25], in reply: I thank all honourable members for their support of the bill. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

Seasonal Felicitations

The Hon. J. P. HANNAFORD (Minister for Health and Community Services) [5.26]: I move:

That this House at its rising today do adjourn until Tuesday, 19th February, 1992, at 2.30 p.m., unless the President, or if the President be unable to act on account of illness or other cause, the Chairman of Committees shall prior to that date, by communication addressed to each member of the House, fix an alternate day and/or hour of meeting.

The Hon. E. P. PICKERING (Minister for Police and Emergency Services and Vice-President of the Executive Council) [5.26]: As is customary at this time of the year I would like briefly to reflect on some events that occurred in this Chamber during the past year and pass on some well-deserved thanks, in the spirit of the festive season, to the many people who help to make this House operate so smoothly. The past 12 months have seen remarkable changes in the New South Wales Legislative Council, with the election of several new members, the retirement of others and the movement of the Hon. Deirdre Grusovin to the other place. She carries my good wishes with her. To those new members - Dr Meredith Burgmann, Mesdames Forsythe, Gardiner and Burnswoods and Messrs Webster, Ryan, Coleman and Obeid - I wish them long and distinguished service in the Council. To those who have departed this Chamber, including the respected Sir Adrian Solomons, I wish them well in their outside pursuits. Speaking generally of numbers - something in which I have a modicum of interest - it is also important to note that there are fewer honourable members in this Chamber. To those three former members - Judy Jakins, Mick Ibbett and Marie Bignold - I send a special Christmas greeting and good wishes for the future.

I note with pleasure the recent reconciliation between Mrs Bignold and Reverend the Hon. F. J. Nile. Christmas is an appropriate time for such a healing of wounds. It proves that even from the most acrimonious of relationships the light of Christian forgiveness can shine through. But I digress. One of the most important elements of the past year in this Chamber has been the passing of the President's baton from the Hon. Johnno Johnson to the Hon. Max Willis. The 12 years that the Hon. Johnno Johnson spent in the President's office brought great credit through the even-handed way in which he conducted the business of the House. The change in Presidents was not trauma free, with the Hon. Johnno Johnson describing the move as his own personal Golgotha. Nevertheless, I am sure that his shift from the big chair has given him more time to boost Australian Labor Party coffers by hawking raffle tickets and Father Mac's heavenly Christmas puddings. By the way, I was pleased to see that Father Mac's rated reasonably well in the latest survey of yuletide puds conducted by the *Sydney Morning Herald*. Considering his great service to this House as President I would like to send a special Christmas greeting to the Hon. Johnno Johnson. I look forward to his continued valued contributions in this Chamber.

Mr President, I would like to thank you for your excellent control of this House and for the fact that you have maintained the proud tradition established by your predecessor. In particular, I am sure we all welcome the return of the tradition to the President's dress, with the addition of robes and wig. But I was relieved that you drew the line at resurrecting the silk pantaloons and ornamental buckle shoes, as this would have had the unfortunate effect of making you look like Little Lord Fauntleroy. This aside, I am sure, Mr President, that you are destined for a long and distinguished period as Presiding Officer of this House. Meantime, changes in leadership have also occurred

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on the Opposition benches, with the retirement of the Hon. Jack Hallam and his replacement with the Hon. Michael Egan. The behaviour of the former Leader of the Opposition in this House was always marked by maturity, responsibility and dignity. Members of his calibre are always sadly missed. So far, the Hon. Michael Egan has proved himself a worthy Leader of the Opposition. Only last night he excelled himself by suggesting to me that we conclude the business of the House by dealing with the last six bills in globo - I shall consider carefully for the new year a change to the sessional orders. What a metamorphosis has occurred in the honourable member, from his antics as a backbencher to the restraint of a serious leader. I look forward to a continuing stable relationship with the Hon. Michael

Egan and the Deputy Leader of the Opposition, the Hon. Bryan Vaughan, to ensure the business of the House progresses in an orderly fashion. To both, and indeed all Opposition members, I offer sincere good wishes for the festive season and the new year.

This year, the Legislative Council has performed a significant amount of work - sitting a total of 432 hours over 54 days, in addition to the number of hours honourable members have sat today. This compares with 616 hours over 72 sitting days last year. The number of bills dealt with during that time was 95, compared with 122 in the previous 12 months. This legislation included historic bills, such as the Industrial Relations Bill, the Government Insurance Office (Privatisation) Bill, the Protection of the Environment Administration Bill and the Hunter Water Board (Corporatisation) Bill, to name but a few. All this work was achieved without the usual end of year logjam for the first time since I joined the House some 16 years ago. An important and welcome figure is the increase in the number of private members' bills debated in the House, which have tripled from two last year to six this year. This compares with no private members' bills debated during the entire last term of the Wransworth Government, which proves that the Greiner Government is prepared to allow matters other than its own to be canvassed in the House. The passage of all this legislation could not have been possible without the important contributions of crossbench members.

To the honourable members from the Call to Australia group and the Australian Democrats, I offer my congratulations for a productive year, together with good wishes for the festive season and 1992. Before progressing, however, I cannot ignore another highlight of this year's sittings - namely, the suspension of the Democrat the Hon. Lis Kirkby. This has to be one of the shortest suspensions - 60 seconds to be exact - in the history of the New South Wales Parliament or, indeed, any parliament. It was indeed unfortunate during all the huff and puff of the tobacco bill debate that the honourable member was caught by a flight of fancy more befitting her colleague the Hon. Richard Jones, with the accusation that the Liberal Party was in the pocket of the tobacco lobby. Quite rightly, this baseless slur was condemned by the House and an appropriate penalty was applied. The performance of the Government in the Chamber has been exemplary, and has certainly been a team effort. In this respect I should like to acknowledge the hard work of the Whips from both the Government and the Opposition side for a job well done this year. Our thanks go to both of them.

In this regard I should like to thank all members of the coalition team for their hard work and support throughout the year. In particular, I would make special mention of the Deputy Leader of the Government, the Hon. Robert Webster, who should be congratulated for making such a successful, although difficult, transition from another place. I must say that I particularly look forward to more of the Minister's answers to questions in the House from Government members. It is a shame that honourable members opposite are so critical of the length of the Minister's answers. One would have to assume that their unwillingness to listen is due either to an uncaring attitude

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towards or ignorance of the important matters the Hon. Robert Webster is trying to air before the House. It is appropriate that I should also recognise the previous Deputy Leader of the Government in this House, the Hon. Bob Rowland Smith, for his contribution during the year and the help he provided to me.

But back to Christmas wishes and congratulations. Thanks for a job well done must also go to the Deputy Liberal Leader, the Hon. Virginia Chadwick, my dear friend from Newcastle; my ministerial colleague the Hon. John Hannaford; and the Government Whip, the Hon. John Jobling. Their skill and hard work have made my job a lot easier, and for that I am certainly very grateful. This time of the year also provides the opportunity to thank the various parliamentary staff who toil to make this House operate smoothly all the time. First, I acknowledge the magnificent service provided to members by the Parliamentary Library. The Librarian, Dr Russell Cope, retired in July after an amazing 28 years in that important office. I thank Dr Cope for the considerable assistance afforded to me by his staff over many years and wish him and his family well in retirement. I also express my appreciation to the table staff of the House: the Clerk of the Legislative Council, John Evans; the Assistant Clerk, Lynn Lovelock; the Clerk of Committees, Mike Wilkinson; the Clerk of Procedure, Giselle Dawson; and the Usher of the Black Rod, Warren Cahill.

To the many officers and their staff working behind the scenes, I also offer thanks for their continuing excellent service. These staff include the Parliamentary Counsel, Dennis Murphy, Bob Davey in Hansard, David Draper in catering, Terry Gorrell with his Chamber attendants, Alan Beverstock for security, and the Building Manager, Stafford Bennett. The hard work of staff from the Legislative Council office must also be well and truly acknowledged. An important thank you for a big effort during the past year must go to my personal staff. As usual, they have been immensely hard working, loyal, and ready to provide me with all manner of information at very short notice. In particular, I would like to recognise the contribution of my press secretary Peter Sinclair, who effectively retires on New Year's Eve. Peter has not only made an extremely valuable contribution to the smooth performance of my portfolio, but he has been doing so for other Ministers - the Hon. John Maddison and the Hon. Ron Mulock - in this Parliament for the past 26 years, which is a remarkable record. Such remarkable service and achievement I am sure is applauded by all. I wish Peter well in the years ahead when he will not have to worry about being hounded by journalists at all hours or deal with temperamental Ministers, myself excepted.

Last, but obviously by no means least, I would like to thank the Parliamentary Press Gallery for their reporting of proceedings from this Chamber on the odd occasion. Personally, I would like to recognise the contributions of the *Sydney Morning Herald's* "Stay in Touch" column, particularly today's contribution. I give their correspondent Mr Bernard Lagan just a bit of advice, if he is listening - which is most unlikely. I now have my own august journal of record, the dynamic "Pickering Papers", as a vehicle for lampooning the inconsequential foibles of the fourth estate. So beware. I already have my field agents out and about. In closing, Mr President, I should like you to return to your own high office and again thank you for the even-handed manner in which you have conducted the proceedings in this House. Your election to such an esteemed position is a fitting tribute to this, your twenty-first year in Parliament. It is important to note that when Parliament resumes on 19th February it will be opened by Her Majesty the Queen, who will be in Australia to mark 150 years of local government in New South Wales.

Finally, to all honourable members and staff I extend to you and your families the sincere good wishes of myself, my wife Elaine and my family for a happy and safe
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Christmas and a happy New Year. Unfortunately, I have to reiterate my comments of last year that we live in unsettled times. Internationally, events appeared to have settled somewhat with the unfortunate, albeit necessary, use of force in the Persian Gulf, but now the disintegration of the Soviet Union poses new problems for international stability. For Australia, things have worsened dramatically in the past 12 months, with almost a million people now out of work. As such, it is important, particularly at Christmas time, to remember that there are many families hurting in the community, and it is incumbent on those of us with jobs and important public responsibilities to assist them as much as possible. Now, more than ever in recent years, we should adopt the yuletide spirit of good will, peace and generosity towards others. Finally, I express a sincere wish for each and every one of us that in 1992 we will all see peace in this world, peace in this country and State, peace in our families, and, above all, I wish each and every one of you peace in your hearts.

The Hon. M. R. EGAN (Leader of the Opposition) [5.40]: On behalf of my Opposition colleagues in the Australian Labor Party I extend to all honourable members the best wishes for Christmas and, in every sense of the word except perhaps politically, for the forthcoming year. I join the Leader of the Government in thanking all who have contributed to the workings of the Parliament this year and to the work of every individual member. I shall start with those who are on deck earliest of a morning, the cleaning staff. Each day they do a magnificent job tidying up the untidiest offices of the untidiest members, among whom I would probably rank high on the list. When we arrive at our office each morning it is always spick and span. I thank the catering staff, who during the year have maintained the reputation of the Food and Beverage Services of this Parliament, for providing the best meals of any parliament in the Commonwealth of Australia. I join the Leader of the Government in also thanking the staff of the Parliamentary Library for the magnificent job they have done once again this year. They are extraordinarily underresourced, but have certainly provided an expert and willing

service to all members, whether Government, Opposition or crossbench. I thank the security staff and the attendants for their ever vigilant assistance to members. I particularly thank the Clerks, the table officers and the staff of the Legislative Council office. I find it incredible, on occasions, given the great pressures that apply, particularly with two hung Houses, that the Clerks are always available and willing to give advice. They are always unflappable. They are always friendly and most willing to assist every member with procedural advice. I am sure they will be glad to see the end of this session.

I thank the printing staff and the photocopying staff. One of the unfortunate aspects of members now having additional staff is that some of our friends in the photocopying section are no longer with us on level 12. However, they continue to provide an excellent service from their office in the basement. I thank the Parliamentary Counsel and his staff, who have worked overtime in drafting bills not only for the Government but also for Independent and Opposition members. They have prepared many bills and amendments, often at short notice. I thank the secretarial and research staff, which every member of the House is privileged to have. I particularly thank my own staff for their loyalty and their assistance during the year. I should like to thank Hansard. I am always amazed at the superb speeches they produce. This morning I read in *Hansard* the remarks I made last night, which I thought at the time sounded a little confused. However, when I read them this morning I was amazed to see how erudite I was. I thank the members of Hansard not only for their assistance but for their great expertise in the job they do and for their obliging co-operation to all members when occasionally we break some of the rules. However, I do not think too many of us complain about that.

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As the Leader of the Government said, many changes took place this year. The one I shall remember most is my election as Leader of the Opposition. Not all of my colleagues voted for me to succeed the Hon. Jack Hallam, but I have had extraordinary loyalty and co-operation from all of them. I place on record my sincere appreciation of them for that. The Leader of the Government made mention of staff members and members of Parliament who are not with us this Christmas. I join with him in wishing them and their families a happy Christmas and a prosperous New Year. This year has undoubtedly been one of my most exciting years in the Parliament. It has also been one of the most exacting years, not so much because of the legislative workload, which probably has been no greater than in other years, but because this year, with an election and its uncertain outcome, we did not have the opportunity to recover as we normally do after an election. For most of us the adrenalin has been pumping all year. During the past few weeks we have all noticed that, and we all look forward to a well-earned respite during the Christmas-New Year period. I assure members on the Government benches that Opposition members are looking forward to that respite so that we may return early in 1992 to do battle with you both in the Parliament and on the hustings. Mr President, I wish you and your family a merry Christmas. On behalf of my colleagues I wish every member of the Parliament and the parliamentary staffs a very happy Christmas and a prosperous New Year.

The Hon. R. J. WEBSTER (Minister for Planning and Minister for Energy) [5.47]: I join with the Leader of the Government and the Leader of the Opposition in wishing all honourable members and staffs the felicitations of the season. I have enjoyed my first five or six months in this Chamber, the first parliamentary Chamber in Australia. Because of the circumstances that occurred prior to the last election - which in some ways were created by people quite close to me - I did not look forward to coming here. However, I am a professional politician and I accept reality. Having been elected to this House, I have been pleasantly surprised at how much I have enjoyed it. At a late hour last night I expressed that sentiment to the Hon. Elisabeth Kirkby. I thank my colleagues for electing me as Leader of the National Party in this Chamber. It is a privilege to lead the National Party in this Chamber, and I am enjoying it. I pay tribute to my predecessor, the Hon. R. B. Rowland Smith, who has given me a great deal of guidance and support. I very much appreciate that. I wish my National Party colleagues best wishes for the festive season. The Leader of the Government, the Minister for Police and Emergency Services, has become a close confidant. With him, I have enjoyed leading and dealing with government business in this House. Ted Pickering is one of the finest parliamentarians in this Chamber, as is generally acknowledged on both sides. I have learned a great deal from working with him, and have enjoyed the experience. I congratulate the Leader of the Opposition on his election as Leader of the Australian Labor Party in this House. I agree with the Minister for Police and

Emergency Services that the Leader of the Opposition has conducted himself with considerable dignity in his office.

Mr President, I congratulate you. The House is run smoothly and with flexibility under your chairmanship. I congratulate also my friend and colleague the Hon. D. J. Gay, the Chairman of Committees, for the way he has conducted the Committees in this House. I congratulate also the Government Whip, the Hon. J. H. Jobling, and the Deputy Government Whip, the Hon. R. T. M. Bull. I recognise the sterling service of my friend, the Hon. Johnno Johnson during his long period of service as President of this Chamber. I thank the Clerks and their staff. I thank the staff of Parliament House from the cleaners to the dining room staff and the attendants for the selfless way in which they conducted themselves during some long and arduous sittings. I thank also the staff of Hansard. I agree with the Leader of the Opposition that the Hansard staff have a

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remarkable ability to string some words together so that they make sense. I am privileged to have a loyal personal staff who have served me tremendously well. To my chief of staff, Jim Jolly, and to all of my personal staff I say a very sincere thank you. I have already thanked my National Party colleagues. I take this opportunity to welcome those who have not long been members of this House, particularly the Hon. Lloyd Coleman, the Hon. Jennifer Gardiner and the Hon. Doug Moppett, who made a return to the House.

I extend my thanks to those National Party members of the Legislative Council who have recently retired. I understand that the Hon. Sir Adrian Solomons is in St Vincents Hospital, but that he is not seriously ill. I have sent a message wishing him well. In conclusion, on behalf of myself and my family, may I join the Leader of the Government and the Leader of the Opposition in wishing all members and their families a very happy Christmas. Christmas is an important time of the year in many ways. Obviously for those who are Christians, it has particular significance. But this period gives everyone a chance to focus on their families and on the idea of having a rest. I have no doubt that all members will appreciate that opportunity. I wish all members well for 1992. We are lucky to live in a true democracy such as Australia. I know all members will do everything they can to ensure that Australia remains a true democracy. I hope next year will bring health, happiness and prosperity to us and to our nation.

The Hon. ELISABETH KIRKBY [5.52]: On behalf of the Australian Democrats, it gives me great pleasure to sincerely thank all those who work together in this Parliament. As was pointed out a few moments ago by the Leader of the House, since this time last year many amazing changes have taken place in the world. The Union of Soviet Socialist Republics has collapsed. At present conditions in that country are unstable but hopefully during 1992 the situation will stabilise. Middle East peace talks have commenced. That process was difficult to establish, but at least the talks have started. The European Economic Community is moving towards a common currency and becoming a common trading bloc. After many years of negotiations the Cambodian peace initiative has commenced. No doubt the lengthy discussions that lie ahead will be difficult. Much closer to home, there were the recent terrible events in East Timor for which the Federal Government must bear some responsibility.

There have been many changes in Australia. Today members of the Federal Government spent many hours locked in yet another leadership battle behind closed doors. During those hours the problems facing our economy were certainly not dealt with. Those problems were exacerbated by the fall in the value of the dollar. Even the Reserve Bank was not able to prevent the fall. During the year ahead the new policies of the Federal coalition in opposition will affect the lives of all of us, even if we are only attempting to combat the propaganda being put out about them. Most seriously of all, we have again learned to our cost what drought means, particularly in New South Wales. The present drought has been exacerbated by the plague of algal bloom on our most important waterways.

As has already been mentioned, there have been many changes in this Parliament. Since the election many new members of very high calibre have joined this Chamber. I do not think any former members would disagree with me when I say that the maiden speeches made by all of

those new members were of a high standard. Those speeches illustrated what an enormous injection of talent there has been into this Chamber. Changes have been made in the operation of Parliament and how our staff are allocated. We have a great deal more electronic assistance after being provided by you, Mr President, and Mr Speaker with devices to make our jobs easier. Our office accommodation will change. All of these measures will assist us to work more effectively.

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I am delighted about the greater use of the committee system during the past year. I hope that next year committees established to consider various legislation and issues - for example, the committee that was established to examine the problems of gun control and the committee that was established to consider the legislation for fixed four-year terms of Parliament - will become the rule rather than the exception. This House has dealt with some landmark legislation during the past year. Less than an hour ago the endangered fauna legislation was passed by this Chamber. That is truly landmark legislation. Yesterday the legislation to establish the Environment Protection Authority was passed. I know from reading the *Hansard* and listening to the debate that the legislation to provide for fixed four-year terms of Parliament does not meet with the approval of every member of the House. The number of private members' bills, private members' motions and matters of public importance that have been debated during the year demonstrates that not only can we cope with the business of Government, but we also have the opportunity to raise matters about which we as individuals or members of particular parties are gravely concerned.

Mr President, on behalf of myself and my colleague the Hon. R. S. L. Jones I extend to you and your family our felicitations for this year and our best wishes for Christmas. Once again this year the Australian Democrats are grateful that the Leader of the Government has been able to consult with us on many matters and suggest ways in which legislation could be dealt with, thereby making the running of the business of the House as easy and as painless as it could possibly be when you are only two members of a party who are attempting to be a shadow cabinet on their own. I congratulate also the Leader of the Opposition for the way in which he conducted himself in the months he has held that office. He conducts himself with great dignity and intelligence. Although his fiery spirit is more controlled than it was, it is still present and, of course, that is what is needed by a Leader of the Opposition. I am also very grateful for the assistance given to the Australian Democrats by the Hon. J. H. Jobling, the Government Whip and the Hon. K. J. Enderbury, the Opposition Whip. I thank the Ministers who have helped my colleague and me so much by making their advisers available to us at all times. I believe this House now functions very well with four Ministers holding senior portfolios.

I cannot let the opportunity pass without thanking the Clerk of the Parliament, the Deputy Clerk and all the table officers for their unfailing assistance and help at all times. Their job certainly has not been made easier with the way legislation is now handled and on occasions we have to wait for legislation to come through from another place. Similarly I wish to put on the record our thanks to the Parliamentary Counsel, the staff of *Hansard*, the staff of the library, all ministerial advisers, catering staff, attendants and the cleaners. I should also like to place on record at this time my personal thanks to Amon Hicks who was working for me as research officer and press secretary until after the State election when he left to take up another position with the New South Wales Labor Council. I shall be eternally grateful, as I have been during the pressure of the last few weeks, to my new research assistant and press secretary, Dominic Wong who has worked tirelessly over the many pieces of legislation. He has done an enormous amount of research and the one thing I must say about Dominic - I have never said it publicly but I have said it privately - is that he is a self-starter. He does this without me prodding or even requesting him. He makes his own decision about the seriousness of the legislation and is one jump ahead of me all the time.

I wonder what will happen in 1992. Perhaps only the past 24 hours may have seen the start of the breaking of the drought and surely that should assist us all. We have the celebration of the city of Sydney and that will mean the visit of Her Majesty the

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Queen to our city and to this Parliament. That shall be another great occasion for us all, even for honourable members such as the Hon. Franca Arena and myself who believe that Australia should be a republic. Even if Australia did become a republic, that does not mean it would no longer be part of the Commonwealth - and the Queen is always the head of the Commonwealth. Another great event will be held, only we do not know when, and that is the long-awaited by-election in The Entrance. Every honourable member of this House will be taking a very keen interest in that and will probably have to do a great deal of hard work in connection with it.

Earlier today I was particularly sorry to learn, as has been mentioned by the Hon. Robert Webster, that Sir Adrian Solomons is once again in hospital. I know that all honourable members will join with me in sending him and his wife, Olwyn, our best wishes for Christmas. I hope that he has a less stressful New Year. We know how he has battled against his illness. As a member of this House he has always shown great strength and courage and he is still showing it during the medical treatment he is undergoing. Perhaps this is the time we should think about what we will do next year and the need for a united effort to beat the recession, to address the needs of the environment and to address the needs of the people of the State. That is our duty as legislators because we are in control of legislation which affects people, whether it be their jobs, education, health or transport. It is a heavy responsibility. As Australian Democrats, a minority party in this House, we have a right to fight for our principles. However we must also work constructively with all other parties represented in the Parliament, whether that be the Call to Australia, the Australian Labor Party, the National Party or the Liberal Party. Finally, I do wish all of you a very happy Christmas; time to relax with your families, time to rest, and hopefully to return next year reinvigorated to take up the tasks that are placed upon us.

Reverend the Hon. F. J. NILE [6.5]: I support the words expressed by the Leader of the House and the Leader of the Opposition in expressing my deep appreciation to all members of the House. I speak also on behalf of my wife. I advise those who thought that my wife may have been involved in a domestic violence scene, that my wife has had some skin cancers removed. I express to all members of the House our prayers for each one of you and your families. We hope that you will have a happy, joyful and blessed Christmas. I thank various honourable members of the House for their support and co-operation. I thank the President, the Hon. Max Willis, who has been presiding over this House since he succeeded the Hon. John Johnson who served for many years in that position. The President has presided over the House with dignity. I also thank the Leader of the House, the Hon. Ted Pickering, for his support and assistance during this busy year with major government legislation. The Hon. Ted Pickering has fulfilled his promise by allowing for private members' bills and motions to be introduced. We are grateful to him for his support, co-operation and assistance in that regard.

We wish to thank also the Deputy Leader of the House, the Hon. Robert Webster, and Ministers the Hon. Virginia Chadwick and the Hon. John Hannaford for their co-operation. The Hon. John Jobling has assisted us as the Government Whip. Often discussions are held hurriedly and questions asked on the run. He has always been most helpful and has kept his word as the business of the House has proceeded. That creates an excellent atmosphere because it cannot function without mutual trust and respect by all members for each other and for the respective parties and their leaders. I thank the Chairman of Committees, the Hon. Duncan Gay, for his support and co-operation. I express our thanks to the Leader of the Opposition the Hon. Michael Egan. In many ways his whole demeanour has been transformed. Maybe we should all have a turn at being a leader of something because it may bring out some leadership or

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statesmanship qualities that have not been fully realised. Again I express our appreciation for the way that the Hon. Michael Egan has communicated with us during the year and for his ability to speak openly and to abide by his statements. Often complications arise and honourable members have to meet to make decisions which may not always be what their leader expects or wishes. Fortunately we have not had any problems this year in that area at all and we thank the Hon. Michael Egan very much for that.

That takes a lot of pressure off those of us on the crossbenches. We also thank the Deputy Leader of the Opposition for his support and co-operation during the year. We also thank the Opposition Whip, the Hon. K. J. Enderbury. Obviously crossbench members experience a great deal of pressure, and since the last election there has been more pressure on my wife and me in exercising the balance of prayer and responsibility. We have certainly sought God's help and guidance in all that we have done in all the major debates on legislation and sought the advice of members of the Parliament from both sides. We have endeavoured honestly to fulfil the very important task that has come to us this year.

We are conscious that we are not perfect and we are always open to constructive criticism and advice from both sides of the Parliament. As I said earlier, it was a particularly wonderful highlight of this year to have the opportunity to produce private members' bills and motions. Following the election we decided to put on the agenda of the Parliament our Call to Australia legislative program so that we might show the balance and wide concern that we had in a number of areas. In some ways we did not expect success with at least one of those bills. It was pleasing that two of the bills proceeded to a vote in this House through their various stages. It was a wonderful Christmas present today to be asked by the Attorney General to sign the Tobacco Advertising Prohibition Bill after it had been successfully passed through both Houses of Parliament as a Call to Australia private member's bill. As honourable members have noted, over the past week the Tobacco Institute has launched an extensive advertising campaign on my behalf to help to build up my image in the State, and my voting support. I understand that more than \$2 million has been spent on the advertisements. I just wish the money had been donated to the drug abuse wilderness project or another worthwhile area. It was disappointing to see so much money wasted in that way. We were disappointed, as were other members of the House, to see the pro-life bill defeated. However, it was worth while for the bill to proceed to a vote after debate in the Parliament. We must recognise that not all bills are passed by the Parliament in accordance with the role of the Parliament but we hope that the legislation will be passed in the future.

I put on the record our grateful thanks to all the staff of the Parliament. The Clerk of the Parliaments, John Evans, and the Assistant Clerk, Lynn Lovelock, have been very helpful. They have always been calm, relaxed and efficient in providing information in relation to the passage of bills and the moving of motions, right up to the last minutes with my wife seeking leave for bills and so on. We also express our thanks to the library staff and to Dr Cope, who has now retired. We thank the Hansard staff, particularly the Editor of Debates, Bob Davey. We thank the Legislative Council attendants, led by Terry Gorrell; and the dining room staff, especially David Draper. He has been most helpful. We have as many functions as anyone in the House, maybe more. We have our annual dinner here attended by 200 to 300 guests. Our guests always praise the efficiency of the staff, the catering and all the other facilities. This year the dinner was addressed by Sir Charles Court. We also thank the security staff for their assistance. The parliamentary counsel have also been of great help. They have often had to work very rapidly because of the private member's bills. They have never failed us. As it is

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the Christmas season and we will be having our Christmas holidays I shall read a few verses from the gospel of Luke, which I am sure all members are very conversant with, to remind ourselves what we are celebrating. Luke chapter 1 emphasises the virgin birth of Our Lord Jesus Christ. From verse 26 it reads:

And in the sixth month the angel Gabriel was sent from God into a city of Galilee, named Nazareth,

To a virgin espoused to a man whose name was Joseph of the house of David; and the virgin's name was Mary.

And the angel came in unto her, and said, Hail, thou that art highly favoured, the Lord is with thee: blessed art thou among women.

And when she saw him, she was troubled at his saying, and cast in her mind what manner of salutation this should be.

And the angel said unto her, fear not, Mary: for thou has found favour with God.

And, behold, thou shalt conceive in thy womb, and bring forth a son, and shalt call his name JESUS.

He shall be great, and shall be called the Son of the Highest: and the Lord God shall give unto him the throne of his father, David:

And he shall reign over the house of Jacob for ever; and of his kingdom there shall be no end.

Then said Mary unto the angel, How shall this be, seeing I know not a man?

And the angel answered and said unto her, The Holy Ghost shall come upon thee and the power of the Highest shall overshadow thee: therefore also that holy child which shall be born of thee shall be called the Son of God.

With those words we are reminded of God's miracle working power from Creation to modern times. As other members have said, we can see the hand of God as our Heavenly Father in some of the wonderful changes that have taken place during this past 12 months with the destruction of the Berlin wall, freedom and democracy in what was the Soviet Union, and the dramatic change from the fear of nuclear war, with the two superpowers no longer facing each other and with the dismantling of the nuclear missiles. I believe that is a modern miracle. So now genuine peace can come to the planet earth by the Prince of Peace Our Lord Jesus Christ. We extend to each one of you and your families our sincere Christmas greetings as we work and pray for the future of our nation, particularly as we approach the centenary of Federation on 1st January, 2001, AD, that we might work and pray for the renewal of Australia as one nation under God.

The PRESIDENT: I thank honourable members for the kind things that they have said about me. I have been in this place now for more than 21 years, which means that more than a third of my life has been given in service in this Parliament. Honourable members may be assured that all of my endeavours are directed to enhancing and maintaining the constitutional role and function of this, the mother Parliament in Australia, and at every opportunity improving the facilities and resources available to all honourable members to fulfil their important functions as members of this place. I convey my thanks for the support that I have received since assuming this office from all members of the coalition parties, members of the Opposition and crossbench members. It has made my learning curve considerably easier than it might otherwise have been.

I take this opportunity to publicly thank my wife and my family, whom I see are represented in the public gallery here today by my eldest daughter, Catherine - quite

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unexpectedly I might add, which means she has either run out of money or she is hungry. I thank them for their tolerance and forbearance over so many years in allowing me to serve in this Parliament. My thanks go also to the Leader of the Government in this House, his deputy that reluctant peer, and the other Ministers of the Government in this place. I thank the Leader of the Opposition for his courtesies and assistance from time to time. I have been gratified to see the Hon. Michael Egan mature so quickly into the office that he now holds, especially since it has been my privilege and pleasure to have known the honourable gentleman since he was a schoolboy. To the Deputy Leader of the Opposition, who was a classmate of mine at law school, I thank him for his courtesies and continuing good-will and good humour.

To the whips - the Hon. John Jobling, the Government Whip, the Hon. Richard Bull, the Deputy Government Whip, and the Hon. Keith Enderbury, the Opposition Whip - I am thankful for the

co-operation and the courteous way in which they make this place run so smoothly. I thank members of the crossbench parties, Reverend the Hon. Fred Nile, the Hon. Elaine Nile, the Hon. Elisabeth Kirkby, and the Hon. Richard Jones for the courteous way in which they add some crossbench spice to the activities of this place and for their personal courtesies and assistance to me from time to time. To my Chairman of Committees, my Deputy, the Hon. Duncan Gay, I can say only that we are a co-operative and happy team. To the Temporary Chairmen of Committees my thanks go for the way in which they accept the burden of presiding, often at short notice.

To the clerks of the Parliament, particularly the Clerk of the Parliaments and the other table officers, I say that I cannot speak too highly of these extremely professional people. I thank the Clerk particularly for the tolerant, benign way in which he has handled my idiosyncrasies, my eccentricities, my intolerable impatience - and a few other things that he could probably add. He and his staff are true professionals, without which this place probably would be an unruly rabble. To all the other staffs and employees of the Parliament I convey my very best wishes in this festive season. Having been here for 21 years I thought I would have known most things about the institution of Parliament. But since assuming this office and having inspected the building and become aware of the hundreds of people who work in it, from the bowels of the earth on level one to the flagpole on the roof, I assure honourable members that I knew nothing. I am continuously impressed by the enormous dedication that the staff of this Parliament in all departments give to make it operate smoothly, and the very great pride that they exhibit in being employees of this the oldest Parliament in Australia.

I would like to thank also my personal staff: my secretary, my executive assistant, my driver and my general assistant, who have been a tower of strength whilst I have been on such a fast learning curve. They are all young, they are all tolerant, they are all enthusiastic. Without their assistance I could not handle this office which I know many regard as a sinecure but which I have discovered is far from that. I thank honourable members, all of you, for the tolerance that you have displayed to the changes that I have sought to implement on the basis that I stated earlier: that it is my intention to enhance as far as is possible that which is available to members in fulfilling their duties. In this regard I take this opportunity to draw to the attention of honourable members that commencing tomorrow considerable building and maintenance activity will be proceeding within the Parliament not only the normal annual maintenance of the Macquarie Street facade and the Chamber, but also alterations taking place on levels 12, 11, 7 and 6. I ask honourable members to be, as much as they can, tolerant of any noise or inconvenience that occurs as a result of that.

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In conclusion let me say to all of you, members and staff, men and women of goodwill: go in peace with your families and loved ones and enjoy with great thanks this wonderful festival of Christmas.

Motion agreed to.

ADJOURNMENT

The Hon. E. P. PICKERING (Minister for Police and Emergency Services and Vice-President of the Executive Council) [6.26]: I move:

That this House do now adjourn.

RAILWAY LEVEL CROSSING SIGNALS

The Hon. BERYL EVANS [6.26]: I raise a matter that should be brought to notice because I fear greatly about the problems that are occurring on railway crossings, especially at a time when there will be increased volumes of traffic during the Christmas period. Perhaps the Government might be able to do some simple thing that would help overcome the problem. Railway crossings are dangerous areas. In my travels I negotiate a number of these crossings. It has become increasingly

obvious to me that the warning methods at crossings are out of date. At present they consist of warning bells and flashing red lights. In today's cars, trucks and other forms of motor transport there is no way that the people riding in them will hear those bells. Most people travel in air-conditioned vehicles with the windows closed. Usually they have a radio or tape playing. It is impossible to hear the bells. In many country areas the warning lights face directly east or directly west, into the sun. Consequently they are extremely difficult to see. Often the driver has to face into the sun and it is impossible for him to see.

Almost every railway crossing has been so designed that one must take a direct turn to cross it. That allows only the smallest distance within which to see the lights. They are almost impossible to see, and it is hard to see if there is a fast train approaching. Almost all crossings are approached along a road that makes a direct turn. I ask the Minister for Transport to explore the possibility of attaching a revolving red light to the top of the flashing light system. By that I mean the revolving police light that is typically used on police vehicles. Such a light could be activated by approaching trains, as are the flashing lights. The revolving light would be seen for a greater distance and give people a warning that a train was approaching. I ask that this request be urgently considered in light of the approaching holiday period and the tragic accident that occurred last week with the *Indian Pacific* train.

LENNOX HEAD SEWAGE TREATMENT PLANT

ANIMAL EXPERIMENTS

The Hon. R. S. L. JONES [6.28]: It has come to my attention that Ballina Shire Council proposes to close the sewage treatment plant at west Ballina and bring raw sewage from Ballina to an enlarged Lennox Head sewage treatment plant from where most of the effluent will be pumped into the sea at Skennars Head. The project will cost \$34 million. There is adequate land at west Ballina, near the existing sewage treatment plant for a new and larger plant, which could be surrounded by a designed artificial wetlands natural filtering system before the effluent reaches existing waterways. The council is pushing ahead with the Lennox Head scheme in spite of a survey by Page 6624

consultants, Camp Scott and Furphy, which revealed that 68 per cent of the people surveyed prefer land disposal and only 14 per cent favour shoreline disposal. Another survey predominantly displayed revealed that 46 per cent of residents favoured ocean disposal, but the only land disposal options offered would cost far more. The existing Lennox Head sewage treatment plant is located entirely within State Environmental Planning Policy 14, wetland No. 88, partly on a small hill eight metres above sea level. The site only allows for expansion of the plant to cater for increased population in the immediate area. Such expansion will damage the wetland. Wetland No. 88 also contains the Ballina Nature Reserve. To impose an increased load from Ballina on this fragile area would be detrimental to the whole wetland.

The environmental impact statement also fails to mention anything about industrial waste. Presently the west Ballina sewage treatment plant takes the sewage from the industrial area, but with the new scheme it will go to the Lennox Head plant with the accompanying heavy metals and other contaminants. The Northern Rivers fisheries conference has expressed concern about bioaccumulation in fish caught and then sold for human consumption. A land-based sewage treatment system is clearly the most suitable form of treatment. The treated water could be used to water parks, gardens and public land. The majority of local residents are in favour of such a system. To proceed with an ocean outfall will result in the sort of mass public protests and accompanying police presence that have occurred at Coffs Harbour. People from the Lennox Head area contacted my office and expressed their concern at the treatment that some of the protesters at Coffs Harbour had received. They expressed fear that if an ocean outfall system went ahead at Lennox Head, hundreds of protesters, who will undoubtedly express their objection to the scheme with their physical presence, will be subjected to strip searches and heavy-handed treatment at the hands of the police, and possibly will be incarcerated. Only full public consultation will avert conflict such as was observed at Coffs Harbour. Incarceration is something that should not happen to anyone, especially at Christmas.

As this is the last adjournment speech for 1991, I also draw the attention of honourable members to a separate issue, but one of urgency - incarceration or euthanasia is the fate awaiting more than 230 marmoset monkeys at Foundation 41. Foundation 41 must vacate its premises by the end of December, and new homes will have to be found for these animals. The other fate awaiting these marmosets is the possibility that they will be subjected to further experimentation and deprivation. About 10 years ago Imperial Chemical Industries (United Kingdom) supplied 50 marmoset monkeys to Foundation 41. Since then the animals have been allowed to breed indiscriminately, beyond the needs of the laboratory's requirements. On 20th November, in response to complaints from the Fund for Animals, Foundation 41 was inspected by an inspector and members of the animal research review panel. The recommendations of the inspection team were referred to the director-general, and as yet, the outcome is unknown. As Foundation 41 will have to vacate its premises, it is a matter of urgency that people concerned for the well-being of animals access that information and find out the fate that these primates face. Members of Fund for Animals, the general public and the scientific community are angry at the irresponsible treatment of these animals. Perhaps ICI, which originally supplied the animals to Foundation 41 and which recently sponsored a symphony of the animals' concert at Taronga zoo, could donate enough money to zoos on the eastern seaboard of Australia to construct suitable dwellings for these marmosets so that they may live out their lives in peace. Surely these primates have suffered long enough. There is an oversupply of primates for research purposes in Australia, and it is our responsibility to ensure that they are adequately cared for. ICI's donation could be supplemented by public donations and the future of these marmosets would be assured.

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RURAL RECESSION

The Hon. D. J. GAY [6.32]: During Christmas felicitations an honourable member made mention of the fact that rain has been falling in country New South Wales: that the drought has broken. Sadly one day's rain does not break a drought. Regardless of whether rural areas have rain, the recession drought continues and the people involved in small business will have a sad Christmas. Last Sunday, a public meeting at Narromine, sponsored by the National Party, was held to discuss these problems. Mr Charlie Frances and Mr Ron Penny organised the meeting, which was chaired by Bill Hawke. Mr Michael Cobb and Mr Gerry Peacocke were guests of the meeting. This meeting was organised by the National Party because all Labor Party members of this House live in Sydney. Even the honourable member for Broken Hill lives in Sydney. The National Party is concerned about people in country areas, and rightly so. The party is concerned that though the great contribution by the Federal National Party in the development of the goods and services tax will mean a big difference to rural industries, there is an interim period where those industries and country people, whether they live on country properties or in towns, will continue to suffer.

At this meeting a group called the Western New South Wales Crisis Group was formed and motions were passed and forwarded to the National Party State Chairman for consideration and implementation. The committee is made up of 12 people. A motion passed at that meeting requested the State Government to enact a moratorium Act to protect rural businesses in New South Wales. Though I understand the feelings people have about a moratorium, they must look at both sides. A lot of people have money in banks. A moratorium is a major step. It may mean that less money can be given to finance people in rural areas. I understand the feeling behind this resolution. Mr Peacocke and Mr Armstrong were asked to interview all relevant institutions to ensure the protection of rural Australia's interest with voluntary commitments currently in place in banks being strictly adhered to. Even though there have been interest rate reductions, many banks are running at a 2 per cent margin with a 3.5 to 4.25 per cent margin on top of that. That is not uncommon in rural areas. As has been stated in the Chamber, much too much is being charged for services and loan application fees, and other bank charges add about 6 per cent to the margin. It is unbelievable that this is being done to our rural industries.

The meeting also requested that the asset test which applies to the abilities of farming families to receive the family allowance supplement and the pensions assets test for people in rural Australia be abolished. They requested that the Government underwrite the 1992-1993 wheat crops. Certainly the Western Australian Government has undertaken to do that. They requested that action be taken to reduce the margins charged by banks between their borrowing and lending rates and that immediate action be taken to reduce substantially the exchange rate of the Australian dollar. This is very much needed so that there can be a capital injection into rural New South Wales. We have a dirty float at the moment. The Reserve Bank is influencing the float and other countries are playing with our dollar. The meeting also demanded an urgent review of agricultural policy, with particular reference to improving the marketing ability of our statutory bodies and selling arrangements, particularly for live sheep. The meeting demanded that a realistic approach be taken towards countervailing duties on foreign products entering Australia, with protection from imported commodities which originate from those countries that subsidise their rural industries in any form.

The PRESIDENT: Order! The honourable member has exhausted his time for speaking.

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MEDICARE CHANGES

The Hon. Dr B. P. V. PEZZUTTI [6.37]: A very important matter concerns the changes to Medicare made recently by the Federal Government. All honourable members would have received in the post a small booklet entitled *The changes to Medicare*. *Once you've read the booklet it's all very simple*. This booklet is not very simple, even with its cartoons, expensive layout and multicolours. Being a general practitioner, I then received more bits of information, together called the *Budget Pack*. It contained many fact sheets telling me about bulk-billing, concession cards, safety nets, administrative arrangements, changes to claim forms, five-digit item numbers and so on. Information was included on the DB1, DB2, DB2-GP, the DB4, patient declarations, patient claim forms, the order forms for patient information and stationery order forms. Of course, they are at no cost. I then received concession guide reference cards for secretaries, with a multitude of different coloured cards from the Department of Veterans Affairs - specific treatment entitlement cards, personal treatment entitlement cards, service pensioner benefit cards, entitlement cards for dependent treatment, et cetera. As well as that, there was a little note on the back saying, "General practice, a healthy future".

Because of Medicare, the general practitioner is being devalued in economic and treatment terms. It is a very sad state of affairs for general practitioners. Though I understand that Medicare has run out of money and that these changes had to be made because Medicare was eating up more and more money, these arrangements put together by the left and supported and argued about by the looney left, are just about the living end of what was meant to be a universally fair and equitable scheme. I bring to honourable members' attention that behind the smiling face of the Medicare card is an absolute disaster waiting to happen. I am pleased that the Minister for Health and Community Services is here. He would be aware of these concerns. I hope that out of the changes that will happen soon access to medical care for the ordinary person will be simplified and more rational. Then hopefully I will not receive this sort of nonsense and the cost of printing such material and posting it out - without any benefit to individuals - will no longer be incurred.

**House adjourned at 6.41 p.m.,
until Wednesday, 19th February, 1992, at 2.30 p.m.**