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New South Wales

Legislative Council

**PARLIAMENTARY
DEBATES
(HANSARD)**

FIFTY-SECOND PARLIAMENT
SECOND SESSION

TUESDAY 11 APRIL 2000

Authorised by the
Parliament of New South Wales

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PARLIMENTARY DEBATES

Corrections to Daily Proof

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Corrections should relate only to inaccuracies. New matter may not be introduced.

Mark Faulkner
Acting Editor of Debates

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LEGISLATIVE COUNCIL

Tuesday 11 April 2000

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

The President offered the Prayers.

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

TABLING OF PAPERS

The Hon. Carmel Tebbutt tabled the following papers:

National Environment Protection Council (New South Wales) Act 1995—Report of National Environment Protection Council for year ended 30 June 1999.

Radiation Control Act 1990—Report of the Radiation Advisory Council for year ended 30 June 1999.

State Emergency and Rescue Management Act 1989—Report of State Emergency Management Committee for year ended 30 June 1999.

Ordered to be printed.

STANDING COMMITTEE ON STATE DEVELOPMENT

Government Response to Report

The Hon. Carmel Tebbutt tabled the Government's response to the recommendations of Report No. 1 of the Committee entitled "Report on the Use and Management of Pesticides in New South Wales, dated September 1999.

Ordered to be printed.

PETITIONS

Star City Casino Entry Restrictions

Petition praying that legislation be introduced placing restrictions upon entry to the Star City Casino, similar to restrictions applying to entry to licensed clubs, received from **Reverend the Hon. F. J. Nile**.

Gay and Lesbian Mardi Gras

Petition praying that the annual Gay and Lesbian Mardi Gras be reorganised on a State and national level with a view to producing a multicultural ethnic parade to show the diversities of ethnicity, received from **Reverend the Hon. F. J. Nile**.

[During notices of motions]

The Hon. M. R. EGAN: I give notice that on the next sitting day I shall move—I am hearing voices.

The Hon. Dr B. P. V. Pezzutti: Are you seeing things as well?

The Hon. M. R. EGAN: I sometimes wonder when I look at you. I am still waiting for that ALP application form to come back. A few members say they will leave the Labor Party if you join it. The trouble is that those who promise to go if you come are my mates, so you will just have to stay where you are.

[Interruption]

The Hon. M. R. EGAN: You potential rat. You stay there.

The Hon. C. J. S. Lynn: Point of order: That is a most unparliamentary term. The Treasurer should not talk about my esteemed colleague the Hon. Dr B. P. V. Pezzutti in those terms.

The Hon. M. R. EGAN: I withdraw the word "potential".

The Hon. D. J. Gay: To the point of order: On numerous occasions, Madam President, you have ruled the term "rat" to be unparliamentary.

The PRESIDENT: Order! I thank the honourable member for his help. I must say that I thought you said "prat".

The Hon. Dr B. P. V. Pezzutti: To the point of order: Madam President, I ask you to withdraw that witticism. I find that more inflammatory than the words used by the Treasurer.

The PRESIDENT: Order! A word of explanation. We have been trying to save money in this Chamber by not putting in a rather expensive loudspeaker so that I can actually hear properly. However, I really did believe that he had called you a prat. So it was because we are trying to save money. But I am told that in the Easter recess the loudspeaker will be put in and I will be able to hear you all better. It is because I have been trying to convince people, especially those speaking from the lower microphone, that they have to refrain from mumbling.

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The Hon. Dr B. P. V. Pezzutti: Point of order: Madam President, I ask you to withdraw that statement. You are in no different position from any other member of the House in that regard.

The Hon. M. R. Egan: If it helps the situation I will withdraw whatever it is the honourable member wants me to withdraw.

The PRESIDENT: As this debate has occurred during the giving of notices of motions, I suspect much of it is not even on the record. However, if it is on the record, I will withdraw the fact that I was witty at the honourable member's expense.

DISTINGUISHED VISITOR

The PRESIDENT: I draw to the attention of the House the presence in the gallery of Adi Kacuraini Kikau, Editor of Debates for the Parliament of Fiji. Adi Kacuraini Kikau is spending a week's attachment in the Procedure Office of the Legislative Council.

SYDNEY WATER ACT: DISALLOWANCE OF AMENDMENT TO SYDNEY WATER CORPORATION OPERATING LICENCE

Debate resumed from 5 April.

The Hon. J. F. RYAN [2.46 p.m.], in reply: Late last year the Opposition moved to disallow the Sydney Water operating licence because it had a number of concerns relating to the terms of that licence. In particular, it was concerned about the lack of genuine independence of the Sydney Water Corporation licence regulator and the lack of independence of the licence review body. It was concerned that the Minister had the capacity to appoint people to review customer contracts and advise on other matters. It was concerned about the lack of reporting to Parliament of audit and review

bodies, and it was concerned about the failure to set a target for unaccounted water loss in the Sydney Water network, and other matters. Those concerns of the Opposition were shared by members of the crossbenches, and for some time this matter has been before the House to be debated. A number of these matters are in the process of being resolved and, as a result, I now move:

That Business of the House Order of the Day No. 1 be discharged from the business paper .

The Opposition still has some concerns about the terms of the operating licence of Sydney Water, and I will put those concerns on the record. In any event, for most practical purposes many of our concerns will be addressed, albeit in a roundabout fashion. I make it clear that the Opposition was prepared to stand up and be counted on this issue, which it initiated, and to brook no compromise. We have compromised for two reasons: first, the Minister responsible for the Sydney Water Corporation, the Hon. Kim Yeadon in another place, has refused to correspond with the Opposition on this matter at all, notwithstanding that the Opposition wrote to him and indicated its concerns; second, we have been told by members of the crossbench that they are prepared to enter into a number of compromises in this area, and we recognise the reality of the numbers in the House. Notwithstanding that, we put on record some of the areas in which we would have a compromise.

First of all, one of the important clauses of the new operating licence, clause 10.2.2, virtually locked out the licence regulator from inquiring into anything that any other regulator of the Government might wish to inquire into. Importantly, agencies such as the Environment Protection Authority [EPA] had the capacity to initiate an inquiry into things such as environmental impact statements and why they have not been delivered with regard to sewage overflows into Sydney Harbour, and if the EPA was inquiring into that matter the licence regulator would not have the authority to inquire into it. It was possible for the Government to nobble the licence regulator by simply initiating other inquiries from another government agency. As it happens, amendments which have been made to clause 10.2.2 somewhat limit that possibility and now allow the licence regulator to come in following an inquiry by the EPA or other agencies and investigate that inquiry.

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One outstanding concern we have with this convoluted way of achieving the same objective is that no time limit is put on how long the Environment Protection Authority may inquire into something. It would not be possible for the licensed regulator to carry out an inquiry because the Government has the capacity to instruct the Director-General of the EPA to simply require the EPA to continue investigating a matter and therefore keep it out of the ambit of the licensed regulator.

The Opposition was concerned about how various issues relating to customer contracts could be audited. We believe that the appropriate auditing authority is the Independent Pricing and Regulatory Tribunal [IPART]. If IPART did not have the capacity to conduct an audit it might be able simply to contract out that business and supervise it. I understand that the new operating licence will provide for IPART to carry out audits. If IPART advises the Minister that it does not have the time or resources to carry out an audit the Minister may appoint someone else—and it may not necessarily be an independent statutory agency such as IPART; it may be another government department of which it might have oversight. We are concerned about how that convoluted method of auditing customer contracts may be manipulated for political purposes.

Finally, Sydney Water expends a lot of energy on telling people that they should do everything possible to save water. And that is right—we should be doing everything possible to save water because we do not want to have to build another dam. Water is a precious resource that we need to look after. However, Sydney Water has no target for ensuring that water losses do not occur from its own network. It is possible that in order to accommodate other objectives included in the licence Sydney Water may drop its maintenance of its water network. Indeed, it must be said that a substantial amount of fresh potable water is being lost from Sydney Water's pipes because they are not being maintained properly. The Opposition is concerned that the constraints set for customers by Sydney Water should be applied to Sydney Water itself.

The Opposition wanted to have included in Sydney Water's licence targets for unaccounted water losses. I understand that the Total Environment Centre proposes to raise this issue in another way; it will be included in the environmental plan attached to Sydney Water's licence. Breaching the environmental plan in that regard will be the same as breaching the licence. One difference is that any matter contained in the environmental plan will not be able to be disallowed by the House. Therefore, if for some reason Sydney Water set an inappropriate target for itself, this House would not have the

capacity to comment on that or to exercise any control over it. So the Opposition has some concerns about those matters. We were prepared to continue to raise those concerns and to vote accordingly. However, we accept that substantial progress has been made in this regard, and we are proud to be part of it. In that regard, and in good faith, I have moved that the motion to disallow the regulation be discharged from the business paper. We look forward to seeing the new licence when it is tabled. When the new licence is tabled the House will have the capacity to disallow it if the Minister does not deliver on all his undertakings. I commend the new motion to the House.

Motion agreed to.

Order of the day discharged.

**SYDNEY HARBOUR FORESHORE AUTHORITY ACT: DISALLOWANCE OF SYDNEY
HARBOUR FORESHORE AUTHORITY REGULATION 1999**

Debate resumed from 6 April.

The Hon. I. COHEN [2.53 p.m.]: I move:

That Business of the House Order of the Day No. 2 be discharged.

The Greens seek to discharge the motion to disallow the Sydney Harbour Foreshore Authority Regulation 1999. The Greens met with the Minister for Urban Affairs and Planning on Thursday 6 April. The Minister and his adviser, Bob Deacon, from the Sydney Harbour Foreshore Authority assured the Greens of a range of things in response to our concerns. Firstly, as I mentioned in my initial speech on the disallowance motion, the Sydney Harbour foreshore area encompasses Circular Quay, The Rocks, Darling Harbour, Haymarket, Pyrmont and Ultimo. This is specified on a map marked "Sydney Harbour Foreshore Authority—Foreshore Area—Amendment No 1", catalogue No. 05099916005, deposited in the Department of Urban Affairs and Planning and Sydney Harbour Foreshore Authority offices.

However, according to the Minister's adviser, the regulation and the powers regulating protests and moving people on apply only to a very small portion of the Sydney Harbour foreshore area. The regulation applies to land marked in brown on the map, namely, Darling Harbour, Dawes Point Park, First Fleet Park and the Australian Technology Park at Eveleigh. According to the Minister's adviser, Darling Harbour and First Fleet Park were covered by a previous regulation, namely, the Darling Harbour (Management of Public Areas) Regulation 1995. The regulation contained similar provisions to those in the current regulation. For instance, in order to hold an assembly or a sporting event, a person must obtain authorisation from the authority.

As with the 1999 regulation, the authority could determine the days, times and conditions in which persons may conduct or participate in the events or assemblies. The authority could charge the organisers and participants of the events. While the Greens do not agree with the principle that the authority can dictate to those who want to hold protests the days, times and conditions of the events or the ability to charge money for the events, we are advised by the Minister's adviser that the powers contained in the old Darling Harbour regulation have not been used unwisely. Although we have concerns about that, we acknowledge the Minister's advice on this matter.

The Minister and his adviser assured us that the powers have never been used to stop genuine protests, except in exceptional circumstances, and the power to charge has been used only for commercial operations, rather than peaceful protests. Another issue of concern to the Greens is the misuse of the move-on powers contained in the old and new regulations of. For instance, the 1999 regulation specifies that "a person must not do any of the following in a public area, except as authorised by the authority". The list includes, "camp or use facilities for sleeping overnight". A similar provision is contained in the 1995 regulation.

The Greens are particularly concerned about how this may be used to move homeless people on both in the lead-up to and during the Olympics. The Minister assured me that this power has never been used, and never will be used, against homeless people. The Greens sincerely hope that that is the case, and will keep an eye on the situation to ensure that it is in fact the case. Our homeless people must be protected from such draconian laws at all costs. Homeless people have the right to sleep

where they want without fear of move-on or harassment. The Greens discussed this matter in detail with the Minister, and we will keep a watching brief of the situation. The Minister raised this issue and made clear indications about it, and we will hold him to them if there is any variation.

In conclusion, the Greens are prepared to discharge the motion to disallow this regulation mainly because of the assurances given to the Greens by the Minister and his adviser that these powers have not been misused and that they apply only to a small part of the Sydney Harbour foreshore area. Therefore, the Greens seek to discharge the motion to disallow the Sydney Harbour Foreshore Authority Regulation 1999.

Motion agreed to.

Order of the day discharged.

EVIDENCE (AUDIO AND AUDIO VISUAL LINKS) AMENDMENT BILL

Second Reading

Debate called on and adjourned on motion by the Hon. J. W. Shaw.

OCCUPATIONAL HEALTH AND SAFETY AMENDMENT (SENTENCING GUIDELINES) BILL

Second Reading

Debate resumed from 5 April.

The Hon. J. M. SAMIOS [2.58 p.m.]: The Opposition will support this bill, which gives the Attorney General a discretionary power to request that sentencing guidelines be set for offences relating to occupational health and safety by the Full Bench of the Industrial Relations Commission in Court Session. This bill is similar to the Crimes (Sentencing Procedure) Act 1999, which received the support of the Opposition.

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The bill is similar to the Crimes (Sentencing Procedure) Act 1999, which received the support of the Opposition. Similar to the present bill, the Act allows the Attorney General to request the Court of Criminal Appeal to set sentencing guidelines for summary sentences.

There have been many reports into occupational health and safety. I recall the report of the Industry Commission of 1995 entitled "The Work, Health and Safety: Inquiry into Occupational Health and Safety", an inquiry set up by the then Coalition Government in December 1994. Among other things, the report recommended that courts develop appropriate guidelines for determining penalties or breaches of occupational health and safety legislation. Other reports have been commissioned, including the McCullum Review in 1997. The Opposition is pleased that the Government has now decided to act to ensure that there is more consistency in punishing those who are found to have committed offences in relation to occupational health and safety legislation. The Opposition has consulted with counsel, however, in relation to the bill. An important issue raised by Mr Arthur Moses of counsel relates to clause 58. Clause 58 deals with the right of peak councils to intervene. Clause 58 (1) provides:

A State peak council, or a representative of a State peak council who is a legal practitioner, may appear in guideline proceedings.

Clause 58 (2) provides:

Without limiting subsection (1), a State peak council or its representative may do either or both of the following:

- (a) make submissions with respect to the framing of the guidelines,
- (b) assist the Full Bench which respect to any relevant matter.

Section 215 of the Industrial Relations Act 1996 provides that for the purposes of the Industrial Relations Act the Labor Council of New South Wales is the State peak council for employees. Section 216 of the Industrial Relations Act provides that an organisation approved by the commission under that section is a State peak council for employers. Mr Moses states:

However, it is interesting to note that pursuant to s.216(4) there have been no regulations which have been gazetted by the Government. Accordingly, there is no mechanism by which an employer group can become a State peak council.

It would thus appear that by virtue of s.58 of the Bill, the only peak council that has a right of intervention is the Labor Council of NSW. All other parties must seek the leave of the Commission to intervene.

One would have thought that regulations should be made in order to allow employer groups to become State peak councils. The views of employer groups are as important as those of the Labor Council in determining sentencing guidelines. As stated by Justice Mahoney, the President of the NSW Court of Appeal, in *CI & D Manufacturing Pty Limited and Ors v. Registrar Industrial Court of NSW and Ors* the Occupational Health and Safety Act imposes onerous duties on employers:

I am conscious that it may be argued that, in what has been done by the Occupational Health and Safety Act, the legislature has established an anomalous and far-reaching jurisdiction. The Act covers a very wide area: it covers almost every area of public and private activity. It applies (with irrelevant exceptions) in respect of every "individual who works under a contract of employment or apprenticeship": see the definition of "employee" in s.4(1), and to all premises "where persons work": see the definition of "place of work" in s.4(1).

The Act imposes far-reaching duties and responsibilities; it imposes upon every employer a duty to "ensure the health, safety and welfare at work of all his employees". (s.15(1)). The Act, by detailed provisions, indicates what is to be done to this and other ends. The provisions of s.15 and s.16 illustrate the width of the duties imposed upon employers. In short, it is Mr Moses' recommendation that whilst the bill should be supported the Opposition should also ensure that the Government make regulations that will allow employer groups to become State peak councils. This would then enable employer groups to have an automatic right of appearance in any sentencing guidelines hearing, as the Labor Council does. That is a very important aspect. The legislation is important and in general the Opposition does not oppose it. However, it has concerns about the issue I have raised, that is, the right of employer bodies to be registered as State peak councils. In those circumstances the Opposition will not oppose the legislation.

Reverend the Hon. F. J. NILE [3.06 p.m.]: The Christian Democratic Party is pleased to support the Occupational Health and Safety Amendment (Sentencing Guidelines) Bill. We congratulate the Attorney General on encouraging this approach, which has also been developed in other areas of the operation of the courts in this State in the criminal jurisdiction. The bill will amend the Occupational Health and Safety Act 1983 to introduce a regime of sentencing guidelines in the Industrial Relations Commission in Full Court Session. The bill applies existing policy regarding sentencing guidelines to matters arising under the Occupational Health and Safety Act 1983.

We are all aware—I am aware because in the past I have been involved with standing committee inquiries into occupational health and safety matters—of the importance of occupational health and safety legislation and the high-profile it has under a Labor Government, which is fairly obvious because of its association with the union movement, to ensure that employers provide the best possible workplace safety in this State. However, in spite of that some employers still do not meet that standard, where there may be injuries and it is shown that the employees are to blame. These sentencing guidelines will provide consistency and fairness in judgments from the commission and ensure that there is not a great fluctuation in fines—for example, perhaps one employer being fined a huge amount of money and another a smaller amount of money for a similar offence.

As I have said, the guidelines have already been introduced into the Court of Criminal Appeal, both in common law and subject to the Criminal Procedure Act, and have met with considerable success. These guidelines will allow judges at the first instance to look at sentencing options that are appropriate to the circumstances of the case, while keeping within appropriate boundaries. Guidelines simply guide but do not dictate. They do not take away the independence of the judiciary. Of course, none of us would want to see that happen. Guidelines allow courts to exercise their sentencing discretion but within the framework which reflects community values and expectations.

As a background to the bill, in January 2000 an exposure draft bill was prepared and circulated to industrial and employer groups and relevant agencies. In the main, the responses were favourable. The bill will allow the Attorney General to apply to the Industrial Relations Commission in Full Court Session to set sentencing guidelines for a specified offence or category of offences. As I have said, the guidelines will assist in the operation of the commission and therefore will assist both employers and employees, and also will assist employer associations and unions to expect and anticipate consistency in judgments, penalties and fines that are applied by the courts. The Christian Democratic Party supports the bill.

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The Hon. J. HATZISTERGOS [3.09 p.m.]: I note with interest that the bill comes before this House at a time when there seems to be a conflict between perceptions about sentencing. On the one hand, arguments—fuelled no doubt by daily media comment—suggest that judges are not getting sentencing decisions right and have been far too lenient. On the other hand, as exemplified by recent events in the Northern Territory, the perception is that the alternative, which is mandatory sentencing, is a step towards the opposite extreme. The debate would suggest that what is necessary is a move away from legislated decreed sanctions in the criminal law.

The Government went into the most recent election advocating a form of grid sentencing that some view as the offspring of the mandatory sentencing pioneered by the Northern Territory. The leader of the Government may wish to reflect on this. The bill continues along the path advocated by the Government prior to the most recent election, namely, allowing courts a discretion in sentencing offenders in the same way as the Crimes (Sentencing Procedure) Act has done. In that way, community perceptions in relation to sentencing can be addressed by the Attorney General making application to the courts for the issue of sentencing guidelines and by allowing the courts to develop the appropriate sentencing guidelines to apply when dealing with individual cases.

The bill has not been introduced precipitately. A number of reports have recommended that workplace sentencing guidelines need to be developed. I mention the Industrial Commission report entitled "Work Health and Safety: Inquiry into Occupational Health and Safety". Sentencing guidelines were recommended by Gunningham, Johnstone and Rozen in their report entitled "Enforcement Measures for Occupational Health and Safety in New South Wales: Issues and Options". The Standing Committee on Law and Justice produced a report on this issue in December 1997 and indicated that when a large number of courts deal with workplace offences under the Occupational Health and Safety Act, it is advisable for them to have guidance on the manner in which they are to deal with cases that come before them.

The provisions of the bill were circulated for public comment earlier in the year. As a consequence, two objections were raised, one from Coles Myer and one from the Bar Association of New South Wales. Both objections argued that guidelines create artificial precedents which could not possibly cover the whole range of offences. Apart from those objections, there has been general acceptance of the guidelines. In my view, the objections miss the point because courts can decline to use the guidelines in appropriate cases if there is no practical utility in the guidelines being formed.

An article entitled "What's in a Name? Guideline Judgments in Australia" examined the question of guideline judgments in Australia and compared the approach adopted in New South Wales with the position in Western Australia. Western Australian legislation also provides for guideline sentencing, believe it or not, but the Western Australian courts have not embraced that for two reasons. The first and most critical reason is the lack of sentencing information, which is not a problem in New South Wales because the Judicial Commission and the Bureau of Crime Statistics and Research provide guidance in appropriate cases on the impacts of sentencing options. Malcolm CJ of Western Australia in *R v Podirsky* (1989) 42 A Crim R 404 mentioned the issue of guidelines sentencing and followed up that reference with a report to Parliament in late 1998 in which he stated:

[D]espite continual requests made through the Chief Justice on behalf of the judiciary, the Ministry of Justice has consistently failed to develop an appropriate programme to collect and publish such statistics to enable proper information to be provided to the courts and the public regarding sentencing. The Ministry and the Government have failed to make proper use of the statistics published by the Crime Research Centre to provide adequate information to the Parliament and the public and have left this task to the news media. The media only tend to report sentencing decisions which are either perceived to be lenient or...which are very severe. Many decisions which are unremarkable are simply not reported.

As a consequence, virtually every application for sentencing guidelines made since then has attracted a response by the courts to decline to issue sentencing guidelines.

While I find some of the reasons not particularly convincing they illustrate a reluctance by courts to delve into an area in which they feel ill-equipped. The article to which I referred earlier, "What's in a Name? Guideline Judgments in Australia" prepared by Neil Morgan and Belinda Murray from the University of Western Australia and the Western Australian Crown Solicitor's Office, respectively, is particularly praiseworthy of the approach adopted in New South Wales, namely, because it reflects both the statistics and information that have been gathered and also judicial acceptance that that form of dealing with sentencing has practical utility. The types of problems that arose in Western Australia have no doubt fuelled the debate and have led to mandatory sentencing taking some shape or form in that State.

The bill introduces a useful mechanism which will provide a compromise between two extremes—between the views of those who decry ad hoc idiosyncratic decision making by the courts and of those who support mandatory, decreed sentencing. The bill provides a method of guiding judges when imposing sentences for offences in a complicated area. Many courts, particularly in rural New South Wales, confronted on ad hoc occasions with the need to impose sentence, would not have adequate guidance but for this sentencing guidelines measure. The bill proceeds along the path advocated prior to the last election. It provides a clear contrast to grid sentencing and mandatory sentencing. For those reasons, I commend the bill to the House.

The Hon. I. COHEN [3.16 p.m.]: The Occupational Health and Safety Amendment (Sentencing Guidelines) Bill seeks to extend the availability of sentencing guidelines to proceedings taken under the Occupational Health and Safety Act. When the concept of guideline sentencing previously was considered by this House during debate on the Crimes (Sentencing Procedure) Bill, I stated that the Greens were opposed in principle to legislation which has the effect of limiting the discretion of a sentencing court. I now restate that position. During debate on the Crimes (Sentencing Procedure) Bill, I quoted a briefing note provided by the Council of Civil Liberties. I again refer to that briefing note to explain my reasons for objecting to the bill:

The Council for Civil Liberties referred to the need to assert the "independence of the judiciary in the face of repeated attempts by politicians to interfere in sentencing".

The fundamental principle—that the Parliament fixes maximum penalties and the courts exercise discretion in relation to sentencing—needs to be respected. We have seen recently with the mandatory sentencing issue in the Northern Territory in Western Australia how dangerous the blurring of this distinction can be.

The Greens oppose any extension of sentencing guidelines. We urge the Government to respect the independence of the judiciary.

This legislation is interesting in the light of recent debate and provides an added impetus for the Parliament to be extremely careful in any movement toward sentencing guidelines, grid sentencing or mandatory sentencing. The honourable member who preceded me in this debate, the Hon. J. Hatzistergos, mentioned that the bill represents a compromise. The Greens believe very strongly that sentencing is not an appropriate matter for compromise. The Parliament should maintain clarity of independence of the judiciary from the political system. Therefore, the Greens do not accept the concept of sentencing guidelines.

The Hon. Dr P. WONG [3.18 p.m.]: I support the bill because it will strengthen industrial relations mechanisms and contribute to improving workplace safety conditions. The Attorney General has stated that workplace injuries cost the State approximately \$2 billion each year. As a medical practitioner and community worker, I have seen at first hand the physical and psychological cost of workplace injuries borne by the injured person and his or her dependent family.

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This bill will ensure consistency of sentencing for breaches of the Occupational Health and Safety Act, by enabling the Attorney General to require development of sentencing guidelines. Following other legislated examples in which sentencing guidelines have already been implemented, I am satisfied that in this case the principles of separation of the executive and the judiciary will be

preserved, and that judicial members of the Industrial Relations Commission will have fairly wide discretion when determining the sentence that an offender should receive.

I am aware of numerous studies examining how discrepancies in the judicial system affect different social groups and communities. In 1998 the Judicial Commission of New South Wales found differences in the sentences received by juvenile offenders from different ethnic groups, namely, that a sample group of Aboriginal and Torres Strait Islander juveniles received harsher penalties than a sample group of Anglo-Australian juveniles. So long as sentencing guidelines respect the fundamental sentencing principles derived from our common law system, such as proportionality, consistency and totality and so long as they allow broad judicial discretion, they will minimise the possibility of sentencing disparity and ensure equity and equality in the judicial process.

I strongly believe that the bill is a very important step towards enabling employers to apply occupational health and safety principles more progressively in the workplace and to become educated about those principles before they breach the Occupational Health and Safety Act. The power to request sentencing guidelines will enable the Attorney General to reflect public concerns not only on sentencing but on broader industrial relations issues, and to guide the legal profession in accordance with those issues.

I am also satisfied that the bill is the result of comprehensive consultation with key stakeholders—employers, unions and the legal profession—and that it delivers on the recommendations of two very significant reports into industrial relations, that is, the 1995 Industry Commission Report into Work, Health and Safety and the 1997 McCallum review of the Occupational Health and Safety Act. Both of those reports recommended development of sentencing guidelines for use by courts in determining appropriate penalties for breaches of occupational health and safety legislation.

Many workplaces still present unacceptably high risks. Those risks can be prevented from occurring through active application of safety practices and standards. Although occupational health and safety is a matter for all participants in the workplace, the key responsibility lies with the employer who is in the best position to ensure a safe working environment. Although there have been many improvements in workplace safety during the years, much more needs to be done. I encourage the Attorney General, as the Minister responsible for Industrial Relations, and the Special Minister of State, and Assistant Treasurer to continue their work in ensuring safer workplace practices in New South Wales.

The Hon. J. F. RYAN [3.22 p.m.]: I support the bill. As a member of the Opposition I had pleasure serving as the Deputy Chair of the Standing Committee on Law and Justice in the last Parliament, during most of which time it conducted an inquiry into workplace safety. As a member of Parliament I found it a particularly enlightening experience to witness the enormous commitment of the mainstream general business community and workers to workplace safety. Few honourable members understand enough how dangerous the workplace can be and take so many important issues for granted. One of the most common forms of workplace injuries is back injury. Many back injuries occur during activities that most honourable members would take for granted without realising they involve workplace safety issues. For example, many people working in the disability services industry do not understand fully how dangerous it is to lift people at the workplace and what enormous injuries might result.

The bill deals with sentencing. During the time of the Committee's inquiries it took notice of sentences given to various companies for breaches of workplace safety laws. Sometimes many members of the Committee were somewhat perplexed by the leniency of some sentences and the apparent harshness of others. The Committee recommended that action ought to be taken, such as the bill proposes, so that sentencing guidelines might be designed by the courts to ensure a consistent sentencing procedure across the board.

Notwithstanding that gaol penalties can be imposed for serious breaches of workplace safety laws, to the best of my knowledge no such penalty has ever been applied. Perhaps the sentencing guidelines might address that issue. The committee found difficulty in determining in which situations a gaol penalty might appropriately be imposed. I imagine that gaol penalties were not included in the bill because they were thought not to be necessary. Culpability of company directors for work site

breaches is very difficult to prove. In fact, they may not be culpable because they may not have even known about such breaches. Nowadays most workplaces are urged to have appropriate workplace safety policies and to ensure that workers are being continually trained on workplace safety so that workplace safety is not the matter of chance that it might once have been. Workplaces are meant to be addressing safety methodically, consistently and continuously.

Recently the Attorney General officiated at the launch of a standard set by Australian Standards for workplace safety management. Employers who do not promote workplace safety deserve to face the full impact of penalties for workplace safety breaches. With regard to the difficulty of sentencing, the most common sentence imposed on a company for a breach of workplace safety laws is a fine. Many honourable members would take the view that a significant fine is appropriate for a serious workplace safety breach. I have no objection to the imposition of heavy penalties on employers and businesses which deliberately flout workplace safety laws.

However, one unfortunate complication of tough application of the law to businesses for breaches is that employees could lose their jobs as a result. If a business becomes financially unviable as a result, many innocent parties are punished. Financial penalties that impact business appropriately but do not cause employees to lose their jobs may have to be found. A more creative approach to sentencing than simply imposition of fines is required. Sentencing options might include gaol, forfeiture of a company's operating profits for a period of time while the company continues to operate, or the directors being unable to gain monetarily from their own business without the viability of the business being jeopardised.

Whilst I support the idea of providing guidelines to the Industrial Court for the purposes of imposing sentences, as members of the Parliament we must be cognisant of the difficulties of imposing monetary sentences. Honourable members might be keen to ensure that the Industrial Court is tough on breaches of workplace safety, but it is by no stretch of the imagination an uncomplicated area, and we must seek to understand difficulties faced by judicial officers who are required to follow the guidelines. However, I am confident that the Industrial Court will be able to formulate guidelines which take those sorts of concerns into consideration.

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On behalf of the Opposition I want to put on the record our strong commitment to workplace safety. As Reverend the Hon. F. J. Nile said, workplace safety is no longer the exclusive preserve of employees; increasingly, it is becoming the strong concern of employers. I have visited some businesses in which the employer's commitment to workplace safety is stronger than that demonstrated by some of its employees. We ought not think that workplace safety is the exclusive preserve of representatives of the labour movement, for importantly the viability of some businesses is related to their workplace safety performance. For example, the business with a good performance in workplace safety will not pay as high a workers compensation bill, and consequently will be more viable. Conversely, a business with an unsatisfactory record of workplace safety may find itself unable to sell its goods or unable to continue operating because of that record. So it is good economics to pursue proper workplace safety procedures.

I compliment the Government on bringing this legislation before the Parliament. I indicate the Opposition's strong commitment to the pursuit of workplace safety. It is one of the important questions to be addressed since the 1984 bill presented a new approach to workplace safety—legislation that, by and large, has worked well. I look forward to the implementation of this and other measures that will improve workplace safety and reduce workplace accidents. That could only be to the benefit of many workers.

The Hon. Dr A. CHESTERFIELD-EVANS [3.31 p.m.]: The Democrats in general oppose the concept of sentencing guidelines because we believe that such guidelines could interfere with the discretion of the courts, and because we believe that Parliament and the judiciary need to be quite separate. However, I acknowledge that this legislation will enable the higher courts to set guidelines for the lower courts. The problem being addressed by this measure and also sought to be addressed by the prisons inquiry is that the current law seems to provide few alternatives in sentencing. That is a worry. Fines seem to be the stock in trade for those imposing sentences, with occasional orders for community services. There appear to be few penalty sanctions of a more constructive nature that might lead to an improvement in workplace behaviour, so the problem that the punishment seeks to

address is at least diminished and workplace behaviour and practices improve. The lack of alternatives to fines is most depressing.

Occupational health and safety was my livelihood before I became a member of this House. The number of deaths in the workplace is greater than the number of deaths on our roads, yet the amount of litigation, sentences and court sanctions related to the number of deaths in the workplace, compared to those related to deaths on the roads, is ludicrously small. The Local Court is the judicial body that mainly deals with the Occupational Health and Safety Act. I understand that this bill is a response to the fact that prosecutions under the Act are so infrequent that magistrates have not much idea about what sort of sentences to impose for minor offences. If the same situation applied in relation to road accidents, the litigant would be approaching the Supreme Court. A huge number of people are fined heavily and incarcerated for road offences. So the seriousness with which occupational health and safety breaches are viewed is at an extraordinarily low level.

I spoke to a man doing his normal day's work as a spray painter. This man was dyslexic and could not read or write, but he had been heavily involved in the maintenance of boats and was extremely good at spray painting, although he did not have a spray painter's ticket. When he ceased working on boats he became a spray painter, but he was given very inferior equipment because it was cheaper to employ him than a person with a spray painter's ticket. This man held the spray painting gun and paint reservoir in his hands, and this was very hard on his wrists. Eventually he developed the most appalling symptoms of repetitive strain injury. However, despite that, he kept on working until one of his hands was unusable. Despite the best of treatment, he is left with a hand that he can no longer use. His boss's response was simply to throw him on the unemployment scrap heap and get someone else to do the job, and to send out private investigators to try to prove that there was nothing wrong with this injured worker.

I have seen workers who have injured their backs at work, where the accident form simply contains a statement that the foreman's advice was "told to be more careful in future". At the corporate level it is fortunate indeed if workplace accident statistics are passed even briefly across the table before or at the beginning of a meeting. Sometimes a transparency of a safety report for the month will be shown briefly, but references to tales of workers having gone back to work are completely ignored. Those cases could result from work practices that could lead to accidents that will ruin the lives of workers and render them unable to work again. Sometimes not even a cursory examination is made of those cases or of the lives of the affected workers.

If I were to have my lateral thinking druthers, everyone who was off work for three months would have to be visited by the chief executive officers of the company to see how those injured people were managing their affairs; or, in the case of a worker who was killed at work, the CEOs would attend the funeral to enable them to see the human face to the accident and not just the faceless statistics. Those are the sorts of things that could lead to the punishment fitting the crime in occupational health and safety. That matters are not coming to the attention of companies' CEOs and they are not being made to feel personally responsible is of serious concern.

In Saturday's press I read that the Glenbrook inquiry judge said that he was concerned that he could not determine which manager in StateRail was responsible for the derailment. That is according to a newspaper report; I do not pretend that I have read the transcript of that inquiry in great detail. However, in a sense that illustrates my point, which is that managers of companies that have poor occupational health and safety records and unsatisfactory work cultures do not feel in any way responsible, and that workplace accidents are just statistics that fly by them.

In the United States of America, which has a lot of regulations relating to asbestos, a manager painted over the skull-and-crossbones sign intended to warn employees about the dangers of working with asbestos. This prevented workers from becoming aware of that danger, but enabled the manager to have the workers work more cheaply because they did not use the proper protective gear. Of course, when the employees became sick with asbestosis this action of the manager became known, and he was jailed for causing the deaths of some of those workers. This caused a revolution in the workplace: bad occupational health and safety practices that were almost malicious in their deliberateness resulted in the incarceration of a manager, rather than a fine being imposed upon the company—a fine that is recorded on the company's books but prompts nothing more than the reaction, "Oh dear, we did not get away with that one."

Thinking that risk management is a question of balancing the fine against the savings that a company might make by having work practices that are not quite as safe is thinking that we must try to stamp out. The guidelines in this bill, in the sense that they are not proscriptive, do not necessarily address that problem. More lateral thinking on solutions, rather than just increasing penalties, would be much better. Those solutions could be along the lines that I have suggested. The Democrats believe that the punishment should fit the crime and that occupational health and safety issues should be taken more seriously.

I become concerned when I hear people say—as did the Hon. J. F. Ryan, who sat through the inquiry—things like, "Well, we have to think of saving the company by weakening occupational health and safety legislation and by not penalising breaches." If a company suffers from sanctions imposed because it flouts occupational health and safety requirements, then so be it. The honourable member enunciated an old-fashioned idea that safety is a cost rather than a benefit and that improving work methods is not cost effective. I recall the case of a worker with a bad back saying, "It is this machine that is the problem." I asked, "What is being done about that machine?" He said, "Not much. But the foreman is very sympathetic." I said, "That's good. But why is he sympathetic?" The worker replied, "He injured his back on it, and that's why he went into the office." I said, "Well, that was good. But what about the boss at the top?" He said, "He's sympathetic too because he also injured his back on this machine. Everyone who works on that machine ends up with a bad back."

It was as if he was saying that they have a ghost in the basement that scares and harms everyone, but it was nice to have that sort of eccentricity as a tradition of the workplace. That sort of fatalism is bad, and it must be addressed. Orders for specific performance could be the order of the day to address unsafe work practices, or at least to institute inspection powers that have teeth, rather than fining people to try to force them to address the issues. Theoretically, the insurance companies do that, but in practice they are not so good at it. So we need alternatives to the traditional penalties imposed for workplace safety breaches. In a sense, this bill may lead to uniformity, but uniformity without a more intelligent approach to solving the problem will not in fact solve the problem. Incarcerating people who could have been diverted elsewhere indicates that we need more legislative measures of the sort contained in this bill.

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The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [3.40 p.m.], in reply: I thank honourable members for their thoughtful contributions to the debate and for their general support for this bill. Lest there be any misapprehension arising from what the Hon. Dr A. Chesterfield-Evans said, there is a vigorous policy of prosecution by WorkCover New South Wales of breaches of the Occupational Health and Safety Act. The honourable member rightly said that this was innovative legislation when it was passed by the Parliament in 1983. It adopted the Robens model, the English model of occupational health and safety legislation, by providing in section 15 a general and absolute obligation on employers to provide a safe working environment, but then providing by way of a defence in section 53 that it might not be reasonably practicable to comply with that absolute obligation.

I agree with the Hon. J. F. Ryan. We have good legislation in place that has worked well over the years. I assure members of the upper House committee, including the Hon. J. F. Ryan and Reverend the Hon. F. J. Nile, that the Government is actively working on their recommendations for a rewrite of that legislation. It has worked well, but 1983 is a fair while ago, and it is right that the legislation be dusted off and re-examined. We are working conscientiously on the recommendations of a committee of this House—a committee that recommended a number of changes. I say, with all due respect to the courts that have applied the Occupational Health and Safety Act, that there has been a perception of some element of inconsistency in the penalties that have been handed down.

I do not disagree with the Hon. J. F. Ryan that the courts should take account of the financial circumstances of a corporation. That, after all, is consistent with the imposition of penalties generally. The fact that a defendant is impecunious is relevant for a court to consider, so those matters can be incorporated in any guidelines that might be prescribed pursuant to this legislation. Similarly, there are live and contentious questions about the extent to which the courts ought to apply what was section 556A of the Crimes Act and what is now section 10 of the sentencing legislation in finding the offence proven but not entering a conviction and not imposing a penalty.

Questions have also been raised by a number of honourable members as to the circumstances that might arise when a crime is so grave that imprisonment might be considered a serious issue. These are matters that I think can be sensibly debated in the course of a guideline application—if it is thought appropriate by the Attorney General to make such an application—empowered by this bill. My advice to the Hon. J. M. Samios is that there is no impediment to employer bodies making an application to the commission to become a peak industrial body under the Industrial Relations Act. I refer in particular to section 216 of that Act. But I am happy to take on board the honourable member's comments and to see whether further regulations ought to be made to facilitate that process. So there are two steps to my response. First, my advice is that it can be done now. Second, I will look into whether further regulations are appropriate. I thank honourable members for their support for the bill.

Motion agreed to.

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

ELECTRONIC TRANSACTIONS BILL

Second Reading

Debate resumed from 5 April.

The Hon. J. M. SAMIOS [3.44 p.m.]: I speak on behalf of the Opposition on the Electronic Transactions Bill. The overview of the bill states:

The object of this Bill is to enact legislation complementary with the Electronic Transactions Act 1999 of the Commonwealth and, by so doing, to ensure that the law of New South Wales in relation to certain matters concerning electronic transactions is consistent with the law of the Commonwealth in relation to those matters.

That is a worthwhile object. The Opposition supports this bill, which goes a long way towards strengthening the legality of electronic transactions in New South Wales. Under this bill a regulatory framework will be established that:

- (a) recognises the importance of the information economy . . .
- (b) facilitates the use of electronic transactions, and
- (c) promotes business and community confidence in the use of electronic transactions, and
- (d) enables business and the community to use electronic communications in their dealings with government.

The Opposition supports this regulatory framework. It is vital to the future prosperity of the State that all forms of transactions, both non-electronic and electronic, are available in business, community and government dealings and that they are legally enforceable. Under Commonwealth and State uniform legislation, transactions will not be considered legally invalid because they have been conducted electronically. The bill is similar to the Commonwealth Electronic Transactions Act 1999, which, in turn, is based on model law on electronic commerce drafted by the United Nations Commission on International Law in 1996. It is worth noting that the Electronic Transactions Act 1999 was introduced to facilitate electronic transactions and for other purposes. As I have stated, the Commonwealth legislation preceded this bill. The Commonwealth Electronic Transaction Act 1999 has as its objects:

- (a) to provide a regulatory framework that recognises the importance of the information economy to the future economic and social prosperity of Australia, and
- (b) facilitates the use of electronic transactions, and
- (c) promotes business and community confidence in the use of electronic transactions, and
- (d) enables business and the community to use electronic communications in their dealings with government.

In essence, the objects expressed in the Electronics Transactions Bill basically relate to a regulatory framework whose objects are the same as those of the Commonwealth Electronic Transactions Act 1999.

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Other important features of the bill are that its changes are based on the principle of media neutrality, which is that paper and electronic documents should have the same legal standing, and on the principle of technology neutral, which is the law should not discriminate between different forms of technology. This should resolve the current uncertainty about the legal status of electronic transactions. Another important point is that e-commerce is the way of the future. It is pleasing that the New South Wales Government has decided to be the first to follow the Commonwealth and enact similar electronic transactions legislation. Though issues need to be dealt with, such as e-commerce privacy laws and the type of technology to be used for digital or electronic signatures, this bill begins the process by recognising the need for law reform for electronic commerce, and sets the foundation to build further on the Electronic Transactions Act of the Commonwealth. This is important legislation that will, as we enter a new millennium, will ensure we move in tandem with the Commonwealth Act. It is important not only for the information needs of the people of New South Wales and Australia but also for the success of our professional and commercial life. The Opposition supports the legislation.

The Hon. R. S. L. JONES [3.52 p.m.]: I support the Electronic Transactions Bill. When I arrived in this Chamber in 1988 there had never been a need for such legislation, but things have changed dramatically. In 1989 or 1990 we were the first on the Internet, which I rarely used. I now find that the first thing I do of a morning is go to my two sites and check out my emails. I now get more emails than I do snail mail. Times truly are changing. The Hon. J. M. Samios has said virtually everything I intended to say about the legislation so I will not repeat it. This is a case of globalisation, because the legislation was drafted on the United Nations Commission on International Trade Law model. It is now working its way, like a worm virus, through countries around the world and has finally reached New South Wales. No doubt the other States will catch up with New South Wales and pass similar legislation. At the threshold of the new century, the new millennium, things are changing very rapidly.

Ms LEE RHIANNON [3.53 p.m.]: The Greens support this bill. We recognise that there needs to be flexibility in the whole approach to this area as it is changing so rapidly, and we need to ensure the validity of electronic transactions. So, we believe legislation is necessary. Somewhere down the track we need to make sure that there are safeguards for the workers in the industry and for the consumers who get involved in it. It is necessary to acknowledge the irony that we are tightening up e-commerce and the electronic manifestations that go with it, yet within this place we have such problems with our electronic mail. That presents a dilemma for the Greens and, I understand, for many other people. Our organisation has literally grown up with email. We have been operating for a bit over 10 years and during that time this whole area of communications has grown enormously. We rely on it.

It is quite a surprise when one comes here and finds that Governor Macquarie Tower cannot take all the email that comes out of this place and government departments. One has come to rely enormously on email and one has an expectation that it is going to work. Not only does it not always work, one may not know that one's mail is not getting through. The beauty of the system in all other places I have worked—many of which have been underresourced—was that if one's message did not get through, one received a message back saying that the message was not able to be delivered. Here, often the only way one finds out is when some irate constituent says, "You said you would contact me by email. Why didn't you?" Then one finds out something has happened in the system.

We have a big problem in this place. We have spoken to the information technology section and we appreciate the support that the information technology committee gives members, but this is a serious dilemma for this House and for the whole functioning of Parliament. One needs to use these measures in all aspects of one's work and do it with confidence and belief in its reliability. So, it is ironic that although we are passing this legislation—which appears unanimously—the system here is not up to scratch. The Greens hope this anomaly will be corrected.

The Hon. D. F. MOPPETT [3.56 p.m.]: It has been interesting indeed to listen to the contributions of other honourable members to this bill. I have been particularly interested in the way in which later contributors have steered off into the area of proclaiming their proficiency in dealing with email. Of course, this bill deals with transactions rather than the sort of chat mail and common communication that is implied in the word "email". I spoke previously in debate on a motion

condemning banks for the way they were configuring their business in country areas of New South Wales. We had to be careful of that criticism because, in many cases, the changes were being run by the clients themselves, who were increasingly transacting their business in ways other than presenting themselves at the banks. The volume of banking—deposits or whatever—by electronic means has grown tremendously. Therefore it is terribly important that we make these critical changes to ensure that signatures et cetera are recognised and that transactions can go through. With those few remarks, I also commend the bill.

The Hon. Dr A. CHESTERFIELD-EVANS [3.58 p.m.]: The Australian Democrats support this bill, which is important legislation that will enable electronic transfers. Validation of this in law is important in the sense that as the convenience of the use of electronic communications increases it is naturally necessary that paper copies do not have to follow before transactions are considered valid in law. The use of secrecy provisions and the inability to change documents later will have to be addressed. It is interesting that the multiple-murdering English doctor, who then falsified his medical records, was caught out because the program he was using showed when a record was altered, and the final copy was not necessarily the only information to be found. Of course, email is not entirely secure. Encrypting systems, which can be used and which probably are secure because of the mathematical difficulty of decoding them, are somewhat cumbersome at present but will become far more seamless as time goes on. The bill is a step in the right direction, and I congratulate the Government on introducing it.

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The Hon. I. M. MACDONALD (Parliamentary Secretary) [3.59 p.m.], in reply: I thank honourable members for their excellent contributions. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

OLYMPIC AND PARALYMPIC GAMES WORKING ARRANGEMENTS

The Hon. M. J. GALLACHER: My question without notice is addressed to the Special Minister of State. Does the Government encourage employees to work from home for the duration of the Olympic and Paralympic Games?

The Hon. J. J. DELLA BOSCA: I am not the spokesperson on matters relating to the Olympics.

The Hon. D. J. Gay: You are the special Minister for everything.

The Hon. J. J. DELLA BOSCA: No, I am not. I am not the spokesperson in this House on matters relating to the Olympics. I am happy to refer the question to the Minister for the Olympics and obtain an answer as soon as possible.

The Hon. M. J. GALLACHER: I ask a supplementary question. Is the Minister aware that employees working from home during the Olympic and Paralympic Games may not be covered by workers compensation insurance? What will the Minister do to protect these employees?

The Hon. M. R. EGAN: I am the Minister representing the Minister for the Olympics in this House. My colleague the Deputy Leader of the Government has referred the first question to the Minister for the Olympics. The so-called supplementary question is not a supplementary question at all; it is what is called a non sequitur.

PARKES MUSICAL AND DRAMATIC THEATRE

The Hon. A. B. KELLY: My question is directed to the Special Minister of State, and Assistant Treasurer. I understand that the Minister recently opened a refurbished musical and dramatic theatre at Parkes. Will he outline this project to the House?

The Hon. J. J. DELLA BOSCA: On Saturday 25 March I had the great pleasure of visiting the town of Parkes. The purpose was to represent the Premier in opening a project known locally as the little theatre. This is a refurbishment of the Parkes Musical and Dramatic Society's theatre, and it gives Parkes a first-class cultural facility. It came about through the typical determination of a voluntary organisation in our country town. In this case it was the Parkes Musical and Dramatic Society. The Parkes Musical and Dramatic Society can trace its history back to before World War I. It is one of the most successful amateur societies in this State.

I understand that since 1953 not a year has gone by without at least one major production. Over the years many well-known shows have been performed, including *The Merry Widow*, *Camelot*, *Arsenic and Old Lace*, *The Sound of Music*, *Pirates of Penzance* and many others. For the citizens of the Parkes district over decades these productions have provided entertainment and endless memories of good times. Some time ago the society approached the local council to upgrade the theatre, which had been largely unaltered since its opening in 1957. This resulted in a \$700,000 project. The centre is now a showpiece, and will enhance the quality of life of the community.

As some honourable members would be aware, the refurbishment includes an enlarged hall facility with theatre-style seating, expanded capacity for the popular theatre restaurant facility, and a large foyer giving great scope for functions and exhibitions, which will be an invaluable asset in a community such as Parkes. There is access for the disabled, separate amenities and facilities for cast members, and a light and sound control suite. All this is a great acquisition for Parkes, and full marks must go to the council and Parkes Musical and Dramatic Society for their efforts. I am pleased that the New South Wales Government was able to contribute to the project. Such facilities enable towns to attract cultural performances and to present local productions in modern state-of-the-art surroundings, adding to the quality of life of our great regional towns and cities.

My visit to Parkes reminded me of a great Labor tradition. Parkes has a political record that has never been equalled, let alone broken. Parkes gave State politics the McGirr family. The three McGirr brothers—Jim, Greg and Patrick, who were born and bred in Parkes—served in the State Parliament as Labor members at the same time in the 1920s. With all their rhetoric about the bush, the National party—or the Country Party, as it then was—the progressives and whatever other aliases the rural conservatives have travelled under, they have never achieved that feat. Jim McGirr went on to become Labor Premier between 1947 and 1952 and his brother, Greg, served as a Labor Minister in the Storey Government of 1920. The family is just one part of Labor's long and great tradition in the country that dates back 109 years.

The central west of the State is the birthplace of three Labor Premiers: Jim McGirr in Parkes, Jack Renshaw in Wellington and Barrie Unsworth in Dubbo. My recent visits to Parkes and Dubbo confirmed the strength of Country Labor. Time and again local government, community groups and individuals approach Country Labor members of Parliament on a range of issues. They know that Country Labor will take up their representations and deliver for the country. Rural New South Wales, with more than a century of Labor legacy, is looking to Country Labor as its natural voice in State and Federal politics. Parkes—that great town of Labor tradition and history—is no exception.

NEW SOUTH WALES RURAL FIRE SERVICE

The Hon. M. I. JONES: My question is directed to the Minister representing the Minister for the Environment. The table on page 3 of the National Parks and Wildlife Service submission to the inquiry into the New South Wales Rural Fire Service sets out the total area burnt in prescribed burns on National Parks and Wildlife Service parks and reserves for 1993-1999. It is clear that in the past seven years there has been a 75 per cent reduction in hazard reduction burning to only 12,000 hectares last year, whilst the size of the national park estate has expanded significantly to 4.5 million hectares in the same period. How will the Minister guarantee to protect life and property close to national parks and wilderness areas in the event of a bushfire during a high fire season?

The Hon. CARMEL TEBBUTT: I will refer the honourable member's question to the Minister in the other House and undertake to obtain a response.

OLYMPIC VOLUNTEERS WORKERS COMPENSATION

The Hon. D. J. GAY: My question is addressed to the Leader of the Government, representing the Minister for the Olympics. Will Olympic volunteers be covered in the event of employee-related injury? If so, how will the insurance be funded? Can the Minister give the House a guarantee that that funding will come from the Olympics budget, not from the rural health and rural roads budgets?

The Hon. M. R. EGAN: I am grateful that the Deputy Leader of the Opposition has asked me that question. Although I do not know the answer, I will find out. I did notice in a newspaper or media clipping a week or two ago that the leader of the National Party in the other place, Mr George Souris—he was responsible for New South Wales taxpayers ending up with a \$60 million bill for Luna Park—recently told the people of New South Wales that we should not have paid for the Olympics up front. In other words, we would have had a \$2 billion bill that would have to be paid forever and a day by not only this generation but also future generations. What sort of appalling fiscal responsibility is that? The Deputy Leader of the Opposition and his colleague in the other place should be ashamed of themselves.

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The Hon. D. J. GAY: I ask a supplementary question.

[Interruption]

The Treasurer has not laid a glove on us yet; he has been misleading the House. I want some answers from him—not like the Premier, who misled the other House recently. Is the Treasurer aware that employees working from home may not be covered by workers compensation insurance? What will his Government do to protect these employees?

The Hon. M. R. EGAN: There are rules about supplementary questions. I would have thought that employees working from home could not, by definition, be Olympic volunteers.

INTERNATIONAL LABOUR ORGANISATION TRADE UNION INVESTIGATION

The Hon. I. M. MACDONALD: My question is directed to the Attorney General, and Minister for Industrial Relations. Will the Minister inform the House of the recent comments made by the Committee on Freedom of Association of the International Labour Organisation relating to the Federal Government's handling of the 1998 waterfront dispute and the Federal Workplace Relations Act 1996?

The Hon. J. W. SHAW: I thank the Hon. I. M. Macdonald for his question and for his relentless interest in matters relating to the working people of this country and their rights. The Committee on Freedom of the Association of the International Labour Organisation [ILO] has recently investigated complaints made by the Australian Council of Trade Unions, the Maritime Union of Australia, the International Confederation of Free Trade Unions, and the International Transport Workers Federation against the Federal Government during the 1998 waterfront dispute when Patrick Stevedores attempted to replace its 1,400 work force with non-union labour.

The complaints against the Federal Government include allegations about anti-union discrimination, interference with strike and boycott action, restrictions on picketing, violation of collective bargaining rights, and interference with the rights of affiliation with international workers organisations. The ILO committee recommended that the Federal Government amend the provisions of the Workplace Relations Act 1996, which the committee noted with concern could restrict a range of legitimate strike action. The ILO committee called for the prevention of training of persons to replace workers legitimately on strike, such as the defence force personnel trained in Dubai.

The committee has reiterated ILO requests that Australia respect its obligations under Convention 98, which deals with the right to organise and collective bargaining, and Convention 87,

which deals with freedom of association and protection of the right to organise. The committee requested that the Federal Government amend the provisions of the Workplace Relations Act 1996 to ensure that individual employment contracts, Australian workplace agreements, are not used to undermine the legitimate right to bargain collectively or to give primacy to individual over-collective relations.

In contrast to the confrontational and anti-union approach of the Federal Workplace Relations Act, the New South Wales Industrial Relations Act 1996 provides a fair, just and secure framework in which employees and their representatives, and employers and their representatives, can negotiate equitable, productive and innovative workplace change. This is done not by way of individual contracts, but rather through collective agreements with protections for the conditions of employment and entitlements of working men and women.

WALSH BAY REDEVELOPMENT

The Hon. R. S. L. JONES: Will the Treasurer confirm that by entering into the project delivery agreement for the redevelopment of Walsh Bay with the Transfield-Mirvac consortium, the Government has given away a 99-year leasehold of prime city waterfront land, over half the size of the central business district, with an estimated value of over \$500 million and has agreed to further contribute more than \$78 million in cash, sales tax relief and stamp duty relief, together with options granted to the consortium to pick up public cultural facilities virtually at or below cost—and all of this for the trifling sum of \$10 million? Will the Treasurer also advise the House precisely how much the new 850-seat theatre on the site will actually end up draining from the public purse?

The Hon. M. R. EGAN: The Hon. R. S. L. Jones' opposition to the Walsh Bay project is well known. I am not in a position to confirm the assertions he has made to the House. However, I will check them out and report back to the House at a later stage. The Walsh Bay project is a very exciting one. I think it will be absolutely first-class. It is adaptive reuse at its very best. I can inform the House today that on my way to lunch at Harry's Café de Wheels, I walked past—

The Hon. D. J. Gay: It is still on your tie.

The Hon. M. R. EGAN: It almost ended up on my tie. I was eating while I was walking.

The Hon. Dr B. P. V. Pezzutti: Point of order: The Treasurer needs to rephrase what he just said. It is beyond my belief that he could walk as far as Harry's Cafe de Wheels.

The PRESIDENT: Order! That is not a point of order.

The Hon. M. R. EGAN: If the honourable member continues I will take back the application form I recently gave him.

The Hon. M. J. Gallacher: He'll join the Greens.

The Hon. M. R. EGAN: He certainly would not join the Greens. He might join the Greens if the Greens' only representative in this place were the Hon. I. Cohen. But he would not join the other one. Of course, it is the other one who has the numbers, and it is the other one who is going to deprive the Hon. I. Cohen of his preselection. I hope the Hon. I. Cohen knows what is going on in his party: he is being overthrown by someone I would describe as much more of a red than a green. I was telling the House that on my way to Harry's Cafe de Wheels—

The Hon. M. J. Gallacher: A pie-and-peas man.

The Hon. M. R. EGAN: No, I am not a pie-and-peas man. I did go down to Harry's today at lunchtime, and I took the opportunity to walk to the Woolloomooloo finger wharf, which is a fine redevelopment. It certainly does not have the public spaces that the Walsh Bay redevelopment will have. As I walked past that precinct I thought that in any other city in the world the Woolloomooloo Bay area would be the focal point. In Sydney we have so many great precincts that we are terribly spoilt. Long may that continue. We will be even further spoilt when—

[*Interruption*]

The Hon. Dr B. P. V. Pezzutti: What about the hospitals in the country and the roads in the country?

The Hon. M. R. EGAN: I cannot listen to two injections at once.

The PRESIDENT: Order! I remind honourable members that interjections are disorderly at all times. The Minister will proceed.

DISTINGUISHED VISITOR

The PRESIDENT: Order! I am happy to draw to the attention of the House the presence in my gallery of Senator Mechai Viravaidya from the Parliament of Thailand. Senator Mechai was the recipient of the 1997 United Nations Population Award for his outstanding achievements in the field of population planning and has recently been appointed an Ambassador for UNAIDS in recognition of his immense contribution to HIV-AIDS work in Thailand.

WORIMI JUVENILE JUSTICE CENTRE CLOSURE

The Hon. PATRICIA FORSYTHE: My question without notice is to the Minister for Juvenile Justice. Despite an overall drop in the number of juveniles being held in detention centres, is it true that the number of juveniles on remand has not only not declined but, as the Minister's department's annual report shows, was last year at its highest level in 10 years? Is it a fact that a different standard of care is required for juveniles on remand compared to those who have been committed? As the Frank Baxter Centre has been built to hold juveniles who have been committed to detention, how can the Minister say that the closure of Worimi, where half the beds are for juveniles on remand, is the result of surplus bed capacity? Is not the closure simply a clumsy attempt to solve the Minister's staffing problems at the cost of appropriate care of the juveniles?

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The Hon. CARMEL TEBBUTT: I thank the Hon. Patricia Forsythe for her question because it allows me to respond once again to various claims made by the Opposition with regard to the closure of the Worimi Juvenile Justice Centre. The issue raised by the honourable member with regard to the number of young people in remand is accurate in the sense that a substantial proportion of young people who are in detention are on remand. That is certainly a matter of concern to the department although it is not something over which the department has a high level of control. Nonetheless, the department is examining a whole range of strategies to deal with the issue.

The new Frank Baxter Juvenile Justice Centre has the capacity to take the majority of detainees and indeed is large enough to include separate remand and committal units. As I mentioned previously, the department is committed to maintaining contact between detainees and their families. When appropriate, family member travel arrangements will be assisted by the department. The question asked by the honourable member clearly demonstrates her lack of understanding of these issues and that the Opposition occupies a completely policy-free zone when it comes to juvenile justice.

One need only examine what has happened at the Federal level. It has taken until today for the Prime Minister to be dragged, kicking and screaming, to recognise the problems associated with mandatory sentencing and to introduce supportive diversionary strategies. Frankly, the Hon. Patricia Forsythe is further behind than the Prime Minister because she cannot acknowledge the successful attempts by this Government to implement diversionary strategies which have led to a substantial reduction in the number of young people in detention.

The Hon. Patricia Forsythe: Address the issues.

The Hon. CARMEL TEBBUTT: That is the issue. There can be no justification for keeping open detention centres that are not needed and there can be no justification for using scarce financial resources to run detention centres when they can be far better utilised in community-based facilities and to improve rehabilitation facilities in existing centres. Quite clearly, it is in the best interests of

detainees to be accommodated in centres that meet national standards.

The Hon. Patricia Forsythe: What about the Hunter Valley?

The Hon. CARMEL TEBBUTT: If the Hon. Patricia Forsythe wants to continue to pursue the establishment of a centre in the Hunter Valley and if she supports building more juvenile justice centres, perhaps she would like to nominate the centre somewhere in the State which she believes should be closed. She has not come forward with any suggestions but continues to pursue populist headlines rather than grapple with the real issue of juvenile justice, namely, that the decline in the number of young people in detention means that the system needs to be reorganised in response to that change.

The Hon. Patricia Forsythe: And you have made cuts to expenditure.

The Hon. CARMEL TEBBUTT: That is right. I have announced the closure of Worimi so that resources can be used effectively in the system to address the needs of young detainees.

YOUTH WEEK

The Hon. JAN BURNSWOODS: My question is directed to the Minister for Juvenile Justice, Minister Assisting the Premier on Youth, and Minister Assisting the Minister for the Environment. Can she inform the House what the Government is doing to improve the role and recognition of local councils during Youth Week?

The Hon. CARMEL TEBBUTT: I thank the honourable member for her question, given that it comes at the end of what has been a very successful Youth Week in New South Wales and nationally. As I informed the House last week, this is the first year that the rest of Australia joined New South Wales in holding Youth Week. Local councils certainly play an invaluable role in the organisation of Youth Week. This year 132 councils hosted events throughout New South Wales. For 16 councils, it was the first time that they had received grants and hosted events.

The partnership between the State Government and local councils is very important to the success of Youth Week. Local councils have contributed funding on a dollar-for-dollar basis either in cash or in kind. The funding pool created for youth activities by contributions from this Government and local councils has reached in excess of \$340,000. Youth Week provides an opportunity for councils to consult with young people on local issues impacting upon them. An examination of activities held by local councils reveals that many councils provide the opportunity for youth forums to consult with young people about important issues.

Changes that this Government has made to the Local Government Act require councils to develop social and management programs to plan for community needs. These plans must aim to meet the needs of specific target groups, including young people. Youth Week provides councils with the opportunity to have young people contribute to the development of those social plans. In addition to entertainment and art events, it is forums such as those that make Youth Week so important.

I am very pleased to announce that next year the Government will create awards for Youth Week activities to recognise the achievement of young people, councils and communities in developing and planning youth participation programs. The award categories will take into account features of communities, including the capacity, opportunities and challenges of smaller councils. I acknowledge that by virtue of their size some larger councils are more able to effectively hold events during Youth Week. The awards will also take into account differences between metropolitan, regional and remote areas as well as more experienced councils vis-a-vis the less experienced councils. The awards will recognise innovation, best practice and the essential element of young people's participation.

The New South Wales Young People's Management Committee will help to judge the awards. All councils in New South Wales sponsoring official Youth Week activities will be invited to submit an entry to the New South Wales Youth Week Council Awards. Young people in local government areas will also be invited to nominate their own local council for an award. Awards will include financial prizes to the winning council for development of a youth project that is consistent

with winning Youth Week activities, including projects developed as a result of youth needs assessment during Youth Week. These awards will provide important recognition of the role that councils play in activities during Youth Week.

DRUG COURT PROGRAM

The Hon. ELAINE NILE: I direct my question without notice to the Attorney General, and Minister for Industrial Relations. Is it a fact that last week he reported to this House the success of the Drug Court trial which has many positive features? Is it a fact that the urine testing of drug addicts in the Drug Court trial had serious weaknesses as addicts knew when it would occur and took cover-up action? If so, how does he know whether the Drug Court trial was successful in the area of drug rehabilitation? How many addicts who are in the Drug Court program have been rehabilitated and no longer use illegal drugs?

The Hon. J. W. SHAW: I thought that in the answer I gave—and certainly in other public statements I have made—I had conceded difficulties or question marks over urine testing of defendants before the Drug Court. I have been quite open about the fact that the matter needs revisiting and it was drawn to my attention only during the past two or three weeks. It is clear—and Dr Don Weatherburn has made this point—that we need to revisit the rigour with which that testing process is undertaken.

There is no lack of candour in relation to this matter: Statistics show retention rates and the level of non-repeat offenders and, as I apprehend it, those statistics are not affected by the question mark raised in relation to testing. Some good statistics arise from the Drug Court experience, but there is also a question mark, rightly raised by Dr Weatherburn, which needs revisiting. It was always intended to be a trial process and, in a sense, an experiment, although perhaps it is unwise to use that term. But it was a model to be tried and, not unexpectedly, arising from that process there are questions, criticisms and things that could, and will, be done better as well as matters that can be adjusted over a period.

I reiterate what I think I said on the previous occasion, namely, that one cannot be sure precisely how successful the Drug Court has been to date. The Bureau of Crime Statistics and Research report is one in a series of studies giving an indication of some areas of success and, as I have said, some areas that need reconsideration and probably rectification.

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One important aspect of the BOSCAR study is its construction of the typical Drug Court participant—male, under 30, Australian-born, who has been to gaol before charged with multiple offences. One further important point which may help to shape the broader Government approach to drug-dependent offenders is, I understand, that 30 percent of participants had no prior experience with treatment. That kind of data allows us to build up a profile of drug-dependent offenders, thereby allowing for programs to more specifically target the people and problems encountered. The question asked by the honourable member is pertinent and sensible. She has pinpointed one area of change that is needed in the Drug Court program but we must not be excessively distracted by that and ignore the important and positive findings that are also available about that court's performance.

OLYMPIC AND PARALYMPIC GAMES WORKERS COMPENSATION

The Hon. M. J. GALLACHER: My question without notice is to the Special Minister of State, and Assistant Treasurer. Is the Minister aware that employees working from home during the Olympic and Paralympic Games may not be covered by workers compensation insurance? What will the Minister do to protect those workers?

The Hon. J. J. DELLA BOSCA: I have obviously become aware of the Opposition's previous attempts during question time to come to grips with the standing orders in order to get this question on the table. I am now in a position to advise the House that I am unable to give a completely satisfactory answer to the member's question. I have sought the advice of a number of my colleagues. I have also sought external formal advice from the relevant offices and agencies in the public sector. I am not prepared to speculate and, as a person who takes my public office obligation very seriously, I intend to check every aspect of the question of the Leader of the Opposition. I have also taken steps to

ascertain the exact position of the Minister for the Olympics in relation to this matter. In the short time available to me since the Leader of the Opposition first asked this question I have done my best to ascertain an answer and to ensure that the Government has allowed this set of circumstances that I think the Leader of the Opposition is simply speculating may be a problem. I will advise the House in a full and proper way at the earliest possible occasion.

LAND AND ENVIRONMENT COURT DEVELOPMENT APPLICATION RENEWALS

The Hon. R. D. DYER: I ask the Attorney General, and Minister for Industrial Relations a question. Will the Attorney provide the House with details of the Government's review of planning laws and the role played by the Land and Environment Court in reviewing development applications?

The Hon. J. W. SHAW: On 7 April 2000 I announced the appointment of Mr Jerrold Cripps as chair of a working party set up to examine the State's planning laws and the role of the Land and Environment Court in reviewing development applications. Mr Cripps is a former chief judge of the Land and Environment Court of New South Wales and a former judge of the Supreme Court of New South Wales. The working group will comprise representatives of the Attorney General's Department, the Department of Local Government, the Department of Urban Affairs and Planning, the Local Government and Shires Association and a judge of the Land and Environment Court to be appointed by the Chief Judge of that court, Justice Mahla Pearlman.

The working party will examine the legislative basis upon which decisions in relation to development applications are currently reviewed by the Land and Environment Court in accordance with the provisions of the Land and Environment Court Act 1979 and the Environmental Planning and Assessment Act 1979. The working party will call for written submissions from all interested parties and may call upon stakeholders to attend meetings of the working party as appropriate in the course of considering their submissions. A reference group will also be established comprising expert advisers and representatives from the Property Council of New South Wales, the Environmental Defender's Office, the Environment and Planning Law Association, the Total Environment Centre and Justice Paul Stein of the Supreme Court of New South Wales. That group will play an ongoing advisory role and it is anticipated that the group will scrutinise and provide informed comment on parts of the draft report, raise issues for consideration by the working party and provide advice on public submissions.

It is important to note that the working party will continue the process of review already instituted by the Land and Environment Court. The Chief Judge has established procedures for consultation with court users and major stakeholders such as the Local Government Association. The court has also adopted time standards and has actively promoted alternate dispute resolution. I believe that the Land and Environment Court objectively and independently decides matters according to the law and the evidence presented. Some criticisms of the court, in my view, have been ill-informed and misconceived. However, some reform may be appropriate. I look forward to receiving the report from the working party in due course.

SEARCH WARRANT ALLEGATIONS

Reverend the Hon. F. J. NILE: I ask the Attorney General, and Minister for Industrial Relations a question without notice. In view of the evidence tendered in the New South Wales Supreme Court concerning a serious "cover-up", will the Attorney General give a reference to the Independent Commission Against Corruption to convene an immediate inquiry into the allegations by former Superintendent Small against former Assistant Commissioner Alf Peate and any other individuals involved in that cover-up? Does the evidence given on oath by former Police Superintendent Bob Small concern allegations of a high-level cover-up by former Assistant Commissioner Alf Peate who told Superintendent Small to "put statements with allegations about drugs and Mr Marsden, and the search warrant for Mr Marsden's home, in his bottom drawer and do nothing"?

The Hon. J. W. SHAW: It is clear that the honourable member is referring to a trial currently being undertaken in the Supreme Court of New South Wales. I, like other than honourable members, am following that trial by way of press reports. I think it is premature to form any conclusions about the evidence given in the course of that trial. I do not propose to make any

references or, indeed, form any conclusions until I have the benefit of the conclusions of the trial judge in relation to that particular matter.

LEBANESE COMMUNITY

The Hon. J. M. SAMIOS: My question is to the Treasurer, Minister for State Development, and Vice-President of the Executive Council, representing the Premier and Minister for Ethnic Affairs? Is the Minister aware that Lebanese religious and community leaders met recently to express concern over the failure of government agencies to solve complex social issues affecting members of the community resulting in controversial comments by Police Commissioner Ryan? Is the Minister also aware that among those present at the meeting were religious leaders Archbishop Youssef Hitti, Archbishop Boulos Saliba, Archbishop Issam Darwich and Sheick Safi? What action is the Premier taking to restore the confidence of the Lebanese community in the Government, which is at an all-time low? Does the Premier fail to see that his indifference to those using the Lebanese community as a scapegoat is fuelling racial disharmony?

The Hon. M. R. EGAN: I certainly want to assure the Hon. J. M. Samios that no-one in the Government would want to use either the Lebanese community or any other national community as scapegoats for anything. I will refer the honourable members question to my colleague the Premier and obtain a response from him.

MINERAL RESOURCES

The Hon. A. B. MANSON: My question is to the Minister for Mineral Resources, and Minister for Fisheries. With the Internet becoming increasingly important in the global economy, what is the Government doing to use that technology to encourage exploration and promote mineral investment in this State?

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The Hon. E. M. OBEID: I commend my colleague the Hon. A. B. Manson for his continued interest in the welfare of the mineral resources industry in this State—unlike Opposition members, who are not keen to listen to what I have to say. The New South Wales Government is committed to encouraging the development of new technology. Yesterday I had the pleasure of giving the opening address to the Australasian Institute of Mining and Metallurgy conference at the Australian Technology Park. On display for all minerals industry delegates to see was DIGS, an award-winning technology developed by my department and now available on the Internet. The Digital Imaging Geography System has been available on the Internet for just over one month. This next stage in the development of DIGS means information about New South Wales minerals and exploration is now instantly available to potential investors anywhere in the world.

The Hon. D. J. Gay: I had a look at it, and that is where I found out that you have got exploration activity over my property.

The Hon. E. M. OBEID: I have not had a question yet from the Deputy Leader of the Opposition, the Opposition spokesman on mineral resources. I am trying to inform him, but he does not want to listen. Indeed, my department has created a world first in minerals information with DIGS on the Internet. DIGS on the Internet makes more than \$2 billion worth of information available to the global exploration community. It is an awesome concept. More than 30,000 geological, mining and exploration reports from the Department of Mineral Resources are now available through the Internet. Some of those records date back to 1870. Companies keen to invest in new exploration opportunities in New South Wales can now research the history of previous exploration and download this information directly from the department's web site. This means we are delivering a faster, more efficient service to potential worldwide investors seeking information about New South Wales.

The Hon. D. J. Gay: What about Lasseter's Reef?

The Hon. E. M. OBEID: We have plenty on Crookwell and your farm.

The Hon. D. J. Gay: I know. I had to go there to find that out.

The Hon. E. M. OBEID: Exactly. DIGS is part of the Discovery 2000 project. The Carr Government has spent approximately \$30 million on this program to encourage minerals and petroleum exploration and investment in New South Wales. Effective exploration relies on quality geoscience information being available to investors. The availability of DIGS on the Internet allows potential investors ready access to this information. For the benefit of the House, I would like to advise that the DIGS address on the Internet is www.minerals.nsw.gov.au.

PROSECUTION OF STEVEN ANAS

The Hon. D. E. OLDFIELD: My question is addressed to the Attorney General, and Minister for Industrial Relations. While I have asked questions previously about Steven Anas standing trial in Greece for his alleged part in the murder of Toula Soravia in Summer Hill, New South Wales, is the Minister aware that even Alan Jones on radio 2UE is now adding his concern to this matter? Is the Attorney aware that Mr Loui Soravia and three other witnesses due to attend the trial in Greece on 8 May are worried about their safety? Is the Attorney aware that Mr Gerry Aposian, a key witness whose testimony is crucial to the successful prosecution of alleged murder Steven Anas, may not attend the trial if his security cannot be assured? Apart from other security arrangements that may be made, will the Attorney General undertake to improve the security of Mr Soravia and other witnesses by requesting the two New South Wales police officers who also are attending the trial to stay in the same hotel as those witnesses and monitor their security?

The Hon. J. W. SHAW: This is a delicate matter and I should be circumspect about what I say. But may I venture to suggest that the security of witnesses in a Greek criminal trial is fundamentally a matter for the Greek authorities. Having said that, there may be something that can be done by the New South Wales authorities. I think the honourable member would know that New South Wales is paying for the travel of witnesses to this trial, as it did on the last occasion when the trial was aborted for reasons determined by the court in Greece. But I would have to say we are very much in the hands of the Greek authorities and perhaps to a lesser extent the Commonwealth authorities with whom we have co-operated, I think, quite well over the years in a difficult situation. I have tried to avoid any conflict between Senator Vanstone and myself in relation to the conduct of these matters.

I will take on board the observations made by the honourable member, but may I give the House some of the background to the matter, without taking up too much of its time. This is a matter of interest. If the honourable member is correct, it is of apparent interest to wireless broadcasters. Steven Anas is wanted in New South Wales for murder and armed robbery with wounding in relation to his alleged involvement in the murder of Mrs Toula Soravia at Summer Hill on 26 April 1994. Two other men have been tried and convicted for their part in the crime, but Mr Anas fled to Greece. Following a request from the Director of Public Prosecutions, my predecessor wrote to the Commonwealth Attorney-General on 17 March 1995 asking that he seek the extradition of Anas from Greece. On 31 May 1995 a formal extradition request was made to the Greek Ministry of Foreign Affairs.

Notwithstanding that Anas was born in Australia, he is considered to be a Greek national because of his parentage. The Greek authorities refused to extradite Anas but indicated that he would be tried instead in the Greek courts. A formal request to that effect was subsequently made by the Commonwealth Attorney-General with the support of New South Wales authorities. The trials of Anas's co-accused have been completed, a precondition that the Greek authorities indicated would need to occur before any trial of Anas would take place. In the meantime, the Director of Public Prosecutions has ensured that the Greek authorities have been supplied with a copy of all relevant documents, including the complete trial transcripts of the co-accused which contain an analysis of the evidence relating to the shooting of Mrs Soravia, the subsequent police investigations and a description of the role of Anas in the crime. They have also been supplied with appeals transcripts, a copy of the exhibits and the summings-up of the New South Wales trial judges in all cases.

The New South Wales Director of Public Prosecutions, understandably and rightly, considers any prosecution of Anas in Greece is the responsibility of the Greek authorities. He has nonetheless pledged his co-operation with all of the agencies concerned. I requested the Commonwealth to ascertain whether the Greek authorities required a financial contribution from New South Wales, but no such requests have ever been received. I do not think I need go into the other details of this matter.

I have said that I will give consideration to the particular matter raised in the honourable member's question. But can I say that, because of the delicacy and longstanding nature of this matter, if there are any other particular questions that the Hon. D. E. Oldfield wishes to raise, I am happy to have more direct communications with him about those matters.

FISHERIES MANAGEMENT

The Hon. JENNIFER GARDINER: My question without notice is to the Minister for Mineral Resources, and Minister for Fisheries. Minister, on the last sitting day you told the House of support for your fisheries management proposals among "real commercial fishers up north". Are you aware that the Northern Professional Fishermen's Association has commended the New South Wales Seafood Industry Council's campaign aimed at raising public awareness of "issues that threaten the commercial fishing industry"—that is, the issues contained in your consultation paper—and has written to that council opposing the compulsory buyouts proposed in that paper?

Further, Minister, are you aware that the Brunswick-Byron Fishermen's Co-op also has expressed its support for the Seafood Industry Council's campaign and confirmed its opposition to compulsory buyouts? Is it not also a fact that the Coffs Harbour Fishermen's Co-op wrote to you on 27 March saying "By implementing the proposals in the Blue Paper you are putting our Co-operative and all other Co-operatives at risk of closure with the flow-on effect to regional areas to be far-reaching and catastrophic" and "We are totally against the compulsory removal of commercial fishing effort"? Did not that co-operative go on to say that that proposal "is the worst act of draconian political bastardry the industry has been faced with in a long time"? If those are indications of supposedly support of "real commercial fishers up north", what does opposition to your proposals look like?

The Hon. E. M. OBEID: I would have thought after four months that the honourable member would have come back into this Chamber having toured the coastline and talked to the co-operatives and recreational and commercial fishers as well as all the stakeholders and had some ideas of her own. So far, all the honourable member has been doing is reacting to segments of people's concerns.

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[Interruption]

I have never said that commercial fishers are happy with the compulsory buyout. I said that they were happy with the general thrust of a discussion paper and the issues in that discussion paper that must be debated. Opposition members hold the flag for a very small sector of the seafood industry—ProFish and Ocean Watch. The seafood industry is more aware than are Opposition members of how the process works. They were with me for two hours this morning, talking about relevant issues and putting on the table positive plans that they think will work for their industry. I am more than happy to receive members of that industry. I have said and I will keep saying to Opposition members that their dilemma is that they do not understand the difference between policies and discussion papers. This discussion paper raises all the problems that are relevant to the fishing industry. They might, in the view of the Opposition, be draconian, but they address—

[Interruption]

Opposition members represent only a small sector of the fishing industry. The Hon. Jennifer Gardiner might not be aware of the difficulties and problems being experienced by the fishing industry. All the stakeholders are aware of those problems and they want them addressed. The issue is: How do we address those problems? The only way to address them is through a discussion paper that will flush out every conceivable issue that must be answered. We must find solutions to these problems.

[Interruption]

It is not up to the Government to tell stakeholders what are the solutions to these problems. I will work with stakeholders, listen to them and consult with them. At the end of the day, when the Government comes up with a policy, after having discussed relevant issues and solutions to those

issues with all stakeholders, Opposition members will have a chance to make personal observations. Until then I suggest that Opposition members should stop selectively—

[Interruption]

About 5,000 submissions must be looked at, addressed and analysed. We must look also at the recommendations in those submissions. After all those recommendations have been assessed the Government will still go back and consult with stakeholders to refine its policy. This Government is about listening to people. Opposition members have not done that; they have not gone out of their way. The only thing that they have done is to go down to the local fish market and listen to a few odd bods who have no real interest in anything other than protecting a small, vested interest. That is what Opposition members are doing.

I say again to Opposition members: They should wait until the Government issues its policy. Then they will have something to talk about. At the moment they are floating in the air. They are selectively picking out issues that have been dealt with in some submissions, but they are failing to address the real issue. The Carr Labor Government has talked to relevant stakeholders on the North Coast and the South Coast. It has determined what are the problems and it has had the courage to put those issues on the table for all to see. This Government, with the stakeholders, will find solutions to those problems and come up with a policy that will help and benefit the majority of people in the industry. Some hard decisions have to be made. The Government and the industry will make those decisions.

FEDERAL GOVERNMENT OVERSEAS EMBASSIES PIANO PURCHASE

The Hon. P. T. PRIMROSE: My question without notice is directed to the Treasurer, and Minister for State Development. Will the Treasurer advise the House of the Federal Government's plans to purchase pianos for overseas embassies and the impact of this decision on New South Wales companies?

The Hon. M. R. EGAN: I must admit that I read with some enthusiasm a recent report that the Commonwealth Government was planning to spend more than \$1 million on grand pianos for Australian embassies around the world. I naturally assumed that the Newcastle piano makers, Stuart and Sons, would have made at least some of those pianos. Unfortunately, it turns out that none of these new pianos was made by Stuart and Sons.

The Hon. Patricia Forsythe: Did you advise the Federal Government about the advantages?

The Hon. M. R. EGAN: I did not know that the Federal Government was buying the pianos until I read the story.

[Interruption]

I did not know that the Federal Government was buying pianos. But I subsequently found out that the Federal Government was not unaware of the achievement of Stuart and Sons. One of the principals of the company, Professor Robert Constable, has written and spoken to many Federal Ministers, including Prime Minister John Howard, Richard Alston and Senator Tierney, about the pianos. They are fully aware—or at least they should be—of the outstanding qualities of the pianos.

The Hon. J. H. Jobling: They are rated as the best in the world.

The Hon. M. R. EGAN: Absolutely the best in the world, and the Sydney Opera House has one to prove it. Opposition members should visit the Sydney Opera House. I am sure that people at the Opera House will proudly show it to them. The Sydney Festival also has one.

[Interruption]

The Hon. M. R. EGAN: I do not know. I think that is an old one. I am told that, when the new \$37 million embassy in Berlin was being built, the ambassador asked that a Stuart piano be considered, but apparently the Department of Foreign Affairs said no. The Stuart concert grand piano,

a remarkable and superbly crafted instrument, has been hailed around the world for its performance, quality workmanship and revolutionary design. The internationally acclaimed pianist, Roger Woodward, described the piano as "a miracle of beauty and an awesome wonder". The international composer, Carl Vine, said:

The Stuart is a vastly more musical piano than the Steinway.

I think it is very poor form for Australians and for the Department of Foreign Affairs to overlook not only the superior performance of the Stuart grand piano but also the potential which the Stuart concert grand piano has to send a message to people around the world about how clever Australia is. It would give me great pleasure if those opposite would join with me in approaching the Federal Government, because I really do not believe that this would have been a decision made by John Howard. I do not believe it was a decision made by Alexander Downer. I think that this was a decision made by some stupid, miserable mean-minded bureaucrat who simply does not know anything about what is happening in Australia. So I am quite confident that my colleagues opposite will join with me in making a bipartisan approach to Mr Downer and the Prime Minister, John Howard, to make sure that the Stuart concert grand piano is the only concert grand piano ever purchased for use in Australian embassies around the world, where it would be a great advertisement for Australia.

The Hon. D. J. Gay: We will join you.

The Hon. M. R. EGAN: I thank Opposition members for their support.

STATE RAIL WORK CONTRACTS

Ms LEE RHIANNON: I direct my question to the Minister for Industrial Relations. Why does the New South Wales Government, which has strongly criticised Federal Government support for individual work contracts, have a contract with the call centre operator, Stellar, which employs all its operators who provide State Rail information to commuters on individual contracts and pays only \$26,000 per year with no weekend, holiday or night penalty rates?

The Hon. J. W. SHAW: The honourable member's question does not relate to my portfolio. It is a matter for the Minister for Transport.

ELECTRICITY INDUSTRY RETAIL TRADING

The Hon. J. H. JOBLING: My question without notice is directed to the Treasurer. I ask the Treasurer whether he is aware of comments published in yesterday's *Australian Financial Review* from Alan Asher, Deputy Chairman of the Australian Competition and Consumer Commission, who had this to say in relation to retail contestability:

The NSW operators are going to have to be fast on their feet or they will be defeated.

Is the Treasurer also aware that, in the same article, KPMG Corporate Finance Director, Steve Heffernan, identified the fact that the New South Wales Government has yet to address the skills needed for electricity companies to engage in retail trading? What assurances can the Treasurer give this House and the people of New South Wales that the State-owned electricity companies will be ready for full retail contestability next year?

The Hon. M. R. EGAN: I must admit I have had my attention drawn to a number of articles in yesterday's *Australian Financial Review*, some of which are hopelessly inaccurate.

The Hon. D. J. Gay: Which ones?

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The Hon. M. R. EGAN: I will come to that at a later stage. I said that some of the articles were hopelessly inaccurate, as was one in the *Australian Financial Review* this morning by a correspondent who, supposedly, is attached to this Parliament.

The Hon. J. H. Jobling: Come back to Alan Asher's comment.

The Hon. M. R. EGAN: I will; the honourable member should be patient. In today's *Australian Financial Review* Lisa Allen stated that the State's gross domestic product [GDP] was \$137 billion. She has lost \$73 billion somewhere. She was not making some estimate, she was specifically quoting \$137 billion as the State's GDP. But the State's GDP has not been \$137 billion for at least a decade. It has been more than \$200 million for a couple of years. To see that sort of nonsense in the *Australian Financial Review* reminds me of what my father used to tell me in the 1950s: Never trust the Liberals, never trust the *Herald*, and never trust the banks. In my father's day I do not think the *Australian Financial Review* existed or, if it did, it probably was not owned by the Fairfax group. If my father were alive today he probably would not say never trust the *Herald*; he would say never trust the Fairfax group, because they always lie. It is absolutely pathetic that someone who works for a financial newspaper and is attached to this Parliament would be so wrong in estimating the State's GDP. She is 33 per cent wrong. Can anyone believe that?

To get back to Mr Asher's comments, I think he is quite right. I think all operators, not just New South Wales State-owned operators, will need to be fast on their feet when retail contestability comes in. I did not think much of Mr Steve Heffernan's comments, which I read. I think he was just wrong, did not know what he was talking about, and would be wise not to open his mouth without checking his facts. Let me assure the House that the Government, particularly Treasury, the Department of Energy and the marketing implementation group, are working very hard to make sure that New South Wales and its retailers are ready for retail contestability.

The Hon. D. J. Gay: There is a long way to go.

The Hon. M. R. EGAN: There is a long way to go. Members opposite ought to ask the Victorian retailers whether they are ready for it. I think the answer is that nobody is quite ready.

CLAIMS AND ASSESSMENT RESOLUTION SERVICE

The Hon. J. HATZISTERGOS: My question is directed to the Special Minister of State. Will the Minister advise the House what progress has been made in the establishment of the claims and assessment resolution service [CARS] under the new motor accidents scheme?

The Hon. J. J. DELLA BOSCA: The principal claims assessor for the claims assessment and resolution service was appointed last year, and initial recruitment to the service is completed. Considerable progress has been made with the publication of guidelines for claims assessors, medical guidelines and impairment guidelines. CARS is to provide an early and inexpensive dispute resolution service as an alternative to litigation. The recruitment of suitable claims assessors will therefore be essential to the success of the new scheme. I am pleased to advise that the recruitment of claims assessors is well under way. I am advised that the level of interest in the positions has been overwhelming. Advertisements were placed in the Law Society journal, the Bar Association news and the *Sydney Morning Herald*, and over 200 applications were received.

The fee structure for assessors is such that experienced and successful legal and other practitioners are encouraged to apply. The selection criteria have also meant that the quality of assessors has been assured. For example, members of the legal profession must have been in practice for 10 years; and solicitors must be accredited specialists or the equivalent. A panel of senior assessors who will handle the most complex and serious cases has already been appointed. The members of the senior panel are as follows.

Mr Ross Victor Letherbarrow, SC. Mr Letherbarrow obtained a law degree from the Sydney University and was called to the bar in 1978, and he took silk in 1999. Mr Letherbarrow is a former member of the Bar Council. Mr Brian Murray, QC, was admitted to the bar in 1960 after graduating in law from Sydney University. He took silk in 1980 and has been a member of the Bar Council as well as an acting judge of the Supreme Court and he is one of Sydney's most senior barristers. Mr Larry King, SC, was admitted to the bar in 1976 after completing the Barristers Admission Board course. He took silk in 1994. Mr Peter Richard Capelin, QC, was admitted in 1964 following his graduation from Sydney University. He took silk in 1979 and is one of Sydney's most respected Queens Counsel. All four bring a wealth of experience to the CARS process, having had between them more than 120 years of experience in dealing with motor accident claims.

In response to requests from insurer and claimant representatives this panel will also hear cases which, although exempted from CARS, are brought to CARS by consent of both parties. These cases are those that are exempted from the assessment system and can go straight to court for a decision. It is understood that in some exempted matters parties may agree to go to CARS in an effort to avoid the expense and delay of legal proceedings.

NEW ENGLAND REGION POWER FAULTS

The Hon. Dr B. P. V. PEZZUTTI: I direct a question to the Treasurer. Will the Treasurer inform the House if there have been, and why there have been, intermittent power faults in the Woolomin, Dungowan and Niangala areas between Tamworth and Armidale?

The Hon. M. R. EGAN: I would have thought that this question would have been asked by the shadow Minister for Energy. This is obviously an attempt by the Hon. Dr B. P. V. Pezzutti to put the knife into the back of the National Party. Nevertheless, it raises a serious issue.

The Hon. D. J. Gay: I asked him to ask that question.

The Hon. M. R. EGAN: Then, I apologise. I did not know that the Hon. Dr B. P. V. Pezzutti had been set up by his National Party colleagues. NorthPower has been aware of some intermittent faults occurring in the Woolomin, Dungowan and Niangala areas between Tamworth and Armidale. The affected feeder was patrolled by both helicopter and ground-based technical staff who tried to find the intermittent fault on the line, but no indication of the problem was found. However, it now appears that the problem is caused by livestock rubbing against the power poles and stays. This causes intermittent contact between the overhead conductors. The suspect stays have been tightened and temporary fences have been erected to keep animals away from the suspect area.

NorthPower is also checking all pole stays on the full 70-kilometre length of the feeder and tightening them where necessary. Local staff will also keep a watching brief on the identified area to monitor the effectiveness of these actions to remove the problem of livestock rubbing against the power poles. I am advised that the community was informed of the steps NorthPower has taken to resolve the problems.

The Opposition keeps pointing out to me that the time for questions has expired. So, if other members of the House have any questions they should put them on notice.

Questions without notice concluded.

JOINT COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

Report

The Hon. Dr B. P. V. Pezzutti, on behalf of the Chairman, tabled the committee's report on the 4th meeting on the annual report of the Health Care Complaints Commission.

Ordered to be printed.

The Hon. Dr B. P. V. PEZZUTTI [4.59 p.m.], by leave: This is the last occasion on which we were able to question the former commissioner of the Health Care Complaints Commission on her annual report. It was a great pleasure to do so. I have enjoyed working on that committee, particularly with the former commissioner. I wish her well for the future.

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BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. I. M. Macdonald agreed to:

That standing and sessional orders be suspended to allow the moving of a motion forthwith that Private Members' Business item No. 57 outside the order of precedence relating to the take note on Report No. 20 of the Standing Committee on Social Issues be called on forthwith.

Order of Business**Motion by the Hon. I. M. Macdonald agreed to:**

That Private Members' Business item No. 57 outside the order of precedence relating to the take note on Report No. 20 of the Standing Committee on Social Issues be called on forthwith.

STANDING COMMITTEE ON SOCIAL ISSUES**Report: Domestic Relationships: Issues for Reform, Inquiry into De Facto Relationships Legislation**

Business called on and adjourned on motion by the Hon. Jan Burnswoods.

BUSINESS OF THE HOUSE**Suspension of Standing and Sessional Orders****Motion by the Hon. I. M. Macdonald agreed to:**

That standing and sessional orders be suspended to allow the moving of a motion forthwith that Private Members' Business item No. 54 outside the order of precedence relating to the take note on Report No. 19 of the Standing Committee on Social Issues be called on forthwith.

Order of Business**Motion by the Hon. I. M. Macdonald agreed to:**

That Private Members' Business item No. 54 outside the order of precedence relating to the take note on Report No. 19 of the Standing Committee on Social Issues be called on forthwith.

STANDING COMMITTEE ON SOCIAL ISSUES**Report: The Group Homes Proposal—Inquiry into Residential and Support Services for People with Disability—First Report**

Business called on and adjourned on motion by the Hon. Jan Burnswoods.

ADJOURNMENT

The Hon. I. M. MACDONALD (Parliamentary Secretary) [5.11 p.m.]: I move:

That this House do now adjourn.

DEATH OF FLORIANO VOLPATO

The Hon. JANELLE SAFFIN [5.11 p.m.]: I pay tribute to the life of the late Dr Floriano Volpato, or Florian as he was called—a friend and a Lismore icon. Florian recently died at the age of 75 years. Such was Florian's character that St Carthages Cathedral, Lismore, was packed with a diverse group of people. Indeed, people flowed outside. My colleague the Hon. Dr B. P. V. Pezzutti and I attended Florian's funeral or mass of Christian burial. We were both paired so that we could attend the service, and I thank honourable members for that. Florian is survived by his wife, Flavia, and his sons Luca and Nicola. Like Florian, Flavia was active in her support of the community and gave a lot of support to Florian.

Florian moved to Lismore in 1954, the year I was born. He made his mark on Lismore early. He arrived there as a salesman with a degree in economics from his home country of Italy. He sat his exams in taxation law and practice, and registered as a tax agent. As Lismore has, and continues to have, a sizeable and wonderful Italian community, Florian, with his skill, intellect and compassion, was able to help his fellow countrymen and women in his new home. I do not have time to list all his achievements, but he ran English classes for immigrants through the Department of Education and Training, or under its auspices, and Italian classes for businessmen and professional men which were

sponsored by the University of New England. Remember that Florian arrived in Sydney speaking Italian, German and French but no English.

The Italian community in my area dominated banana growing. As Florian prepared tax returns for the banana growers he could see that they were losing the largest share of the profit to the middle men—agents, distributors, wholesalers and retailers. He persuaded the growers to open their own ripening centres in regional centres and sell their products directly to the retailers. This heralded the formation of three co-operative societies: Murwillumbah, Lismore and Coffs Harbour. Following this, markets with ripening rooms were established in Wollongong, Geelong and Bendigo. These operations were very successful, but the plants were eventually sold off—when the original growers became elderly—for a handsome profit.

Florian started his life with a love of the arts and maintained this love or passion throughout his 75 years. After World War II Florian returned to his studies and got his economics degree. If he could have followed his passion he would have pursued arts. He was a painter and a wonderful singer. Indeed, he was an all-round arts lover, but his father wanted him to get involved in the profession for which he was qualified. Florian wanted to study at the Academy of Arts in Venice, but such is life and, as he said, his father won. While Florian followed what he was trained for in Verona for two years, he became restless and frustrated by the bureaucracy that was both stifling and sometimes corrupt.

In Florian's words, "my mind started to seek new horizons. I was convinced that in the world there must have been other places where life could be more exciting and pleasant." Australia appeared to Florian to be the richest country in the world, and so he came. Florian arrived, having secured exclusive agencies to import crystals from Murano and motta sweets from Milan. His early experience in Sydney, where he did manual work in a sugar mill in Pyrmont, led to his having a life-long respect for labourers. He never lost that respect; I remember his talking about that when people were toiling at the museum in New Italy.

So back to the arts. Florian spearheaded the formation of the Continental Music, Sports and Recreation Club. He was very generous with his time, money and, in recent years, with a very wonderful NORPA. He was president of Lismore Lions at times and the achievement he treasured most—indeed, he lobbied me and others relentlessly about this—was the establishment of the New Italy Museum and Park of Peace complex, which is on the Pacific Highway at New Italy just south of Woodburn. It took more than 10 years to build the complex, with massive input from the community. Florian also wrote a book about New Italy.

Florian was in the army in World War II. He left the front line to join the resistance as part of a group of partisans. He was captured by German forces and tortured, and he spent some time in solitary while awaiting execution. He thought he would be executed but managed to escape, and he went back to the resistance. The nicest thing that was said at Florian's funeral was by his son, Luca. In his eulogy he said that his father was inspirational, generous to family and community, kind, a wonderful role model and a giant, and that he loved them.

TEACHER DISCIPLINE

The Hon. PATRICIA FORSYTHE [5.16 p.m.]: I raise the important issue of the disciplining of teachers. There would be little argument from anyone in the community that teachers who abuse their students need to be disciplined appropriately. Indeed, the Wood royal commission, which in part focused on paedophilia, was clear in its recommendations that key Government departments needed to improve their systems of investigation and to develop consistency of approach across other departments. Honourable members will recall debate on the bills introduced in November 1998 establishing the Children's Commission and introducing prohibited employment legislation to protect children.

The principles behind the bills were supported, but concerns about implementation were raised. Indeed, concern was raised about the way in which the Department of Education and Training was already dealing with allegations. Time is showing those concerns to be well founded. Nothing is undermining the morale of teachers more than the current approach by the Department of Education and Training to the disciplining of teachers. An urgent review is necessary. No doubt such a review

would show the need for a body independent of the department to have responsibility for the role. Appropriately, it should be a professional body of teachers. I call on the Government to undertake such a review.

Separately, I hope that the new parliamentary committee, the Committee on Children and Young People, will have an opportunity to review the issue broadly. I have received serious concerns from the family of a young teacher in the non-Government system about the way allegations against that teacher were dealt with by the Ombudsman. Allegations that Justice Wood never envisaged would have been the subject of such complaints. However, my main concern tonight is the case management unit of the Department of Education and Training. Over the past year I have heard from countless teachers who are concerned about the capacity and, indeed, the methodology of the unit to deal appropriately with allegations.

At present the highest profile case involves the principal of Dubbo High School, Jim Carey. The community of Dubbo stands behind the principal, who is the subject of allegations about his reporting of incidents. Representatives of the school, parents, teachers and students have all expressed the view that in their minds the principal is being victimised by departmental officials—and they name names. The impact of that case is that public education is being undermined and a teacher's reputation is being destroyed. Everyone in Dubbo believes that the Department of Education and Training has thrown out the principles of natural justice. But that is only one case.

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Loq:Forsythe

A search through my files indicates that among the allegations raised about the case management unit are the allegations that none of its employees has legal training; there are no clear guidelines about the interviewing of witnesses; the nature of allegations is not always given to teachers who are the subject of allegations, but instead they usually receive a standard letter; there is no safeguard against malicious or vexatious complaints; and the privacy of files, despite government denials, is not guaranteed. The effect of all of this for teachers is that the department, which should be there to support them, is in fact seen to be undermining them. That is why the Government must take action to improve the system.

The effect of the work of the case management unit is that for many teachers the normal bond with their students has been broken. I heard recently of a male teacher in a primary school who literally told his class that he had a magical ring around him which no-one was to cross, so he did not touch anyone in the class and they did not touch him. This does not advance the cause of children. The government must give this issue a high priority in the interests of children, teachers and education. The profession will not be revitalised unless problems that are undermining it are resolved.

GEORGE PETERSEN

The Hon. I. COHEN [5.21 p.m.]: I should like to honour the achievements of a notable citizen of this State, Mr George Petersen, who died recently. There is no doubt that while he was a member of the Legislative Assembly George Petersen was not afraid to take positions on causes, no matter how unpopular or unwinnable they appeared to be. George Petersen had not long been elected when Michael Matteson, the anarchist draft dodger who had just served a short sentence at Long Bay, told him of systematic bashings in New South Wales prisons and of the first signs of organised prisoner protests. Petersen started to ask questions, and to collect and sift statements from ex-prisoners, and he was soon in a position to name names. Government Ministers covered up and the Labor leaders, fearful of electoral backlash, tried to gag him. But he pressed on with his campaign for penal reform.

When prisoners briefly seized control of Bathurst Gaol in February 1974 and burned it to the ground, the problems could not be ignored any longer. The subsequent royal commission vindicated him and an all-too-brief period of prison reform followed. Petersen had rather more lasting success with his other campaigns: homosexual law reform, and the release of three members of Ananda Marga who were gaoled in connection with the Hilton bombing. In the opening rounds of these crusades he never had more than a handful of supporters. Sometimes even his local party supporters hesitated, but that did not faze him.

By the time Petersen left Parliament in 1988, he had been expelled from the Labor Party. The heroic period of Labor reforms was over. He crossed the floor in 1987 to vote against the Unsworth Government's dilution of workers' rights and entitlements to workers compensation, and expulsion from the Labor Party automatically followed. As a socialist representing an industrial area with its more than fair share of dangerous industries, it was not surprising that he chose this issue as his Golgotha. There was to be no resurrection, although he stood as an Independent Labor candidate in 1988. Nevertheless he remained active as an environmentalist and civil libertarian. In fact, a week before he died he attended his last meeting, of the Kiama branch of Amnesty International.

I should like to speak about some of George Petersen's work in the Illawarra electorates he represented and his environmental activism in more recent times. His tenacity was legendary. During the famous coke ovens campaign of the 1960s George attended every meeting held by the workers who were campaigning about carcinogenic emissions. It must be remembered that there were three meetings per day, including the meeting of the night shift, whose meeting was held in the middle of the night. While most other former members of this place spend their days enjoying their retirement, in his seventies George took up the Shellharbour Marina campaign. For years he wrote submissions, attended inquiries, lobbied and worked tirelessly to protect the beach, wetland and marine environment which he loved. Although approved and supported by both the Australian Labor Party and Coalition governments, to this day the marina has not been built. South Shellharbour beach remains intact, rather than being torn apart with a 200-metre channel.

So few people of his calibre pass through this place, and we therefore need to remember and learn from the life of George Petersen. Most of all, his passing has reminded me of all those campaigns which must have seemed so difficult to win at a time when George was the lone voice in the Parliament. If George had given up, there might have been sand mining of Myall Lakes, New South Wales might not have had Aboriginal land rights legislation, and the Ananda Marga members might still be unjustly imprisoned for the Hilton Hotel bombing. Before George Petersen went to hospital for the last week of his life he dictated letters of support for 10 prisoners of conscience. It was a fitting end to the career of a political dissident and civil libertarian. Petersen had the good fortune to not only have the love but also the political sympathy of his family. His first wife, Elaine, and children, Eve and Eric, his second wife, Mairi, and daughter, Natalie, all shared his socialist convictions. He is truly one of those people of whom it can be said that the good they did lives after them. George was a classic left-wing political warrior, missed by many, and an inspiration to all.

NATIONAL ABORIGINAL RUGBY LEAGUE ASSOCIATION

The Hon. JAN BURNSWOODS [5.24 p.m.]: Last Wednesday during the adjournment debate I outlined my concerns about the actions of Dubbo City Council with regard to the annual National Aboriginal Rugby League Association [NARLA] knockout tournament in Dubbo. In particular I commented on the attitude of the mayor, Gerry Peacocke, whom we know as the former member for Dubbo in this House, and his arguments in relation to the alleged unavailability of police for crowd control during the first week of October due to the Olympics being held in Sydney. It is entirely inappropriate that some people in Dubbo, including Mr Peacocke, should attempt to put forward such an argument. First, the Olympics will conclude on 1 October, and, second, police leave, training and so on will have been cancelled. Therefore the argument about the supposed unavailability of police during that period is much exaggerated.

I further question the attitude of the council on the basis that the very successful carnival held by the Aboriginal rugby league association in Dubbo last year was based on the organisation itself providing security officers, marshals and so on, who did all the necessary crowd control and policing. Despite the fears expressed by some people in Dubbo last year, perhaps in a racist away, only one arrest related to the event.

Last week I also drew to the attention of the House, and I should like to reiterate now, that last year Dubbo gained an enormous amount of income from this carnival. For that reason the President of the Chamber of Commerce and many other business people would be very happy for the carnival to be held again in Dubbo. In fact, to my amazement I discovered that it was claimed that during last year's carnival the McDonald's restaurant in Dubbo was the biggest-selling McDonald's in Australia for that period. I believe that that indicates the effect of this carnival on local business. The

beneficial effect of so many Aboriginal football players and their supporters being able to come together should also be acknowledged.

I now regret to inform the House that having found Dubbo council to be unsympathetic to the carnival being held in Dubbo, despite the excellent facilities and clear economic benefits to the community, NARLA requested Nambucca Shire Council to approve the event being held in Nambucca at the same time of the year, that is, starting on the October long weekend. However, unfortunately Nambucca council has also refused to approve the event, apparently using some of the same arguments about the absence of police. This is despite the assurances given by the organisers about the intention to employ private security officers, just as was done in Dubbo last year, and despite the fact that the police based in and around Coffs Harbour have clearly stated that they do not believe there will be any compromise to safety because of the number of police that will still be available. I reiterate that the carnival will commence just as the Olympics are finishing, that it will be between the Olympics and the Paralympics.

I draw to the attention of the House my fear that behind some of these law and order and so-called Olympic arguments lies a racist attitude to an Aboriginal football association. For a while it appeared that an international cricket festival was to be held in Dubbo on exactly the same dates, but I now understand that that event has been cancelled. Nevertheless, when talking to people in Dubbo I was interested to hear their view that they did not think a cricket carnival, despite the huge numbers of people it would have attracted, would have created problems because they thought it would be attended by a "different crowd".

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Perhaps I should put the words "different crowd" in inverted commas. I guess that everybody has grown up regarding cricket as very much a white, middle-class, Anglo-Saxon game but I very much fear that there is a racist attitude underlying the distinctions that are being drawn.

VICTIMS COMPENSATION

The Hon. C. J. S. LYNN [5.29 p.m.]: I wish to speak about Mohammed Serfian, who sometimes lives with his father at 25 Merrylands Road, Merrylands, and sometimes with his mother at 46 Crozier Street, Eaglevale. On 12 March 1997 Mohammed and two friends, Maxwell Verschuur and Terrence Fonofehi, invaded a home at Karrabul Road, St Helens Park. During the home invasion those criminals ordered three young men in the house to lie face down on the floor while they robbed the house. During the robbery Mohammed Serfian asked one of the young men, Nathan Snape, to get up and open the front door to let them out. When he could not get the door open Mohammed shot him through the back of the head and he died instantly.

What followed became the worst of nightmare for Nathan's parents, David and Debbie Snape, and their daughter, Rachel. They attended court approximately 20 times over a three-year period. The murderer, Mohammed Serfian, and his two co-accomplices were charged with murder, armed robbery, possession of firearms, possession of drugs and other offences. The police did not arrest the murderer and his two accomplices until May 1997—some two months after the incident. In November 1997 Maxwell Verschuur and Terrence Fonofehi decided not to testify against Serfian because of threats that Serfian had made to kill them and their families. Charges were then withdrawn against Serfian.

In October 1998 Verschuur and Fonofehi realised they were looking at lengthy gaol terms whereas Serfian was likely to get off scot-free. They agreed to a lesser charge of armed robbery in exchange for a 40 per cent reduction in their sentences. Serfian was re-arrested, charged with murder and immediately released on bail. It has been reported that Serfian broke his bail conditions a number of times, but nothing happened to him. Mr and Mrs Snape were advised that if Verschuur and Fonofehi did not honour their agreements to testify against Serfian they would be re-charged with murder and would lose their 40 per cent discount.

During the Supreme Court proceedings on 7 February 2000, three years after Nathan Snape was brutally murdered, the two co-accused testified that Serfian was with them on the night of the home invasion and that he had said to Fonofehi, "Give me the gun. I want to waste somebody." Even though another witness who was in the house testified that Serfian kicked and dragged Nathan Snape

to the next room, even though the two co-accused heard the shot in the next room, and even though the three of them then ran from the house—all of this evidence was given under oath—the judge gave the jury a Prasad direction and the jury brought in a not guilty verdict. Mohammed Serfian walked free.

So we have a situation where three men broke into a house and an innocent boy was brutally murdered. Two of the offenders received very light discounted sentences and the one who committed the murder has walked free. This case begs the questions: Were the police incompetent in the conduct of their investigation? Is the justice system now so weighted in favour of the criminal that brutal, cold-blooded murderers can treat our law and justice system with contempt? Members of this Parliament need to look now at a system that allows victims such as Mr and Mrs Snape to achieve justice through the civil courts. It is time that this Government embraced an OJ Simpson system of civil justice recovery for victims.

It is clear that the prosecution in this case has almost all the evidence to justify a civil justice finding that a particular person committed the incident. I call on the Government now to enable the prosecution to recover compensation for victims based upon the evidence given in the criminal trial, whether or not a criminal conviction is obtained. It is now time to look at these issues in a more lateral way to give victims justice and allow the community to know the truth.

SMOKE-FREE ENVIRONMENT

The Hon. Dr A. CHESTERFIELD-EVANS [5.33 p.m.]: Fifty years after tobacco was proved to kill people, it distresses me somewhat to have to inform the House of continuing problems associated with smoking. A decision by Commissioner Graeme Innes of the Human Rights and Equal Opportunity Commission under the Commonwealth Disability Discrimination Act 1992 can be found on the Internet at www.hreoc.gov.au. It concerns cases Nos H97/50 and H97/51 between Neil Francey and Sue Meeuwisse as complainants and Hilton Hotels of Australia Pty Ltd as the respondent. The decision given on 10 March this year revised the original decision given on 25 September 1997.

The background to the matter is that Sue Meeuwisse was born with cystic fibrosis. Her parents were told that she was going to die and that they should become used to the idea. She grew up with the idea that she was about to die shortly but, of course, being a spirited young woman who wanted to stay alive, she fought strenuously, undertook physiotherapy, adhered to the diet that was best for her and avoided tobacco smoke and other pollutants. By the time she was over 30 years of age she was one of the very few people suffering from cystic fibrosis who had survived to reach that age.

When she reached that stage in her life, her lungs, which had never been healthy, went to the pack. She had been on oxygen for years and eventually underwent a double lung transplant. Ironically she was transplanted with asthmatic lungs so she still had some lung problems. She has now suffered kidney damage because of the effects of anti-rejection drugs associated with her lungs transplant. As she approaches her fortieth birthday she has problems with her lungs and kidneys.

On a night when she decided to go to the Hilton Hotel nightclub known as Julianna's, she was badly affected by tobacco smoke. Together with her companion, Neil Francey, she sued the Hilton Hotel. Originally, under the Disability Discrimination Act to which I have referred, the commissioner found against the Hilton Hotel on the ground that the hotel had discriminated against Neil Francey and Sue Meeuwisse. He ordered that the respondent, Hilton Hotel, pay \$2,000 to Ms Meeuwisse and \$500 to Mr Francey. But before making a final decision, the commissioner sought submissions from health groups, the complainants and the respondent on steps to be taken to address the inequality.

The nub of my speech is to inform the Parliament of the problems that were encountered in issuing orders to address the problem. The commissioner considered four alternatives. First, complete prohibition of smoking in the venue; second, the physical separation of smokers from non-smokers; third, separate smoking and non-smoking environments within the venue with independent air sources, and fourth, the use of ventilation or filtration systems. The option most favoured by the complainants was a complete ban on smoking at the venue, but the commissioner did not make that order. He observed that the complaint was made against part of the hotel which functions as a nightclub and that the only way to separate smokers from non-smokers was to operate two separate nightclubs—one for smokers and one for non-smokers—and he was not willing to do that.

The commissioner referred to separate smoking and non-smoking environments but decided that air curtains were ineffective in achieving the separation and concluded that it was not possible to achieve segregation. He also said that he did not believe that ventilation or filtration systems were a viable option because the technology simply did not work. That view is supported by James Repace, who is probably the greatest world expert in this field, and who visited Australia recently. Prohibition of smoking at the venue has the advantage of simplicity and cheapness, but the hotel was not at all keen on that suggestion and claimed that it would go broke if it were implemented. The hotel stated that an order in those terms would make the nightclub a non-viable proposition.

I believe that that is a common misconception which has been fanned by the tobacco industry. When venues have become smoke free, no-one has become bankrupt, but the persuasiveness of that argument is yet to be brought home to the Australian hotel and club industry. The bottom line in the case was that the commissioner felt that he could not order the venue to become smoke free because the nightclub would be placed at a disadvantage vis-a-vis other nightclub venues. He effectively said that nothing could be done. Fifty years after smoking has been shown to cause lung cancer, a Human Rights and Equal Opportunity Commissioner is not able to come to a decision that will provide people with smoke-free air. Legislation to ensure a smoke-free environment has been needed in New South Wales for 30 years and we certainly need it now. [*Time expired.*]

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IMMIGRATION

The Hon. Dr P. WONG [5.38 p.m.]: In the last month immigration has again become a burning topic in Federal and State political debates. A debate on immigration is to be welcomed provided it is well-informed, comprehensive and democratic. Understanding the issues of population location, multiculturalism and difference and how they relate to globalisation, the economy and the environment is a very complex task. Those issues can only be understood in intelligent analysis and debate. Having said that, it is very important to look at the issues in a holistic manner and not to jump to ad hoc, self-centred conclusions. Simplistic and political outbursts, despite how relevant they sound to the solution of one particular problem, may cause harm to the overall society.

When talking about immigration it is important to understand that many drastic changes have occurred in that process in contemporary times. While earlier forms of migration involved the movement of people on a permanent basis, in this era of globalisation many people are constantly on the move, and migration does not necessarily mean settlement. Those who settle in the new environment join communities that are linguistically and culturally heterogeneous. Successive waves of migration through history have resulted in the contemporary form of nation-State. The nation-State has become a more open entity, characterised by economic, political, social and cultural globalisation. Constant movement of population is one of the most evident characteristics of modern and progressive societies within that process. Within that context, migration no longer means the creation of diaspora minority groups within an alien culture.

Migrant societies are instead cosmopolitan societies with residents experienced in global cultural production with political and economic connections. By accepting and understanding those positive characteristics of immigration, the receiving society would be well placed to take advantage of the new era. Overall, immigration is one significant law of the nation-State expressing its relations with other States in a closely linked international community. It is about enabling residents and citizens to identify with and belong simultaneously to more than one place and bringing them closer together. The benefits of immigration to Australia are many and varied. For example, immigration involves skills, capital, technology transfer and the bringing of new ideas and practices which contribute greatly to building a good economic society for this country.

Some would argue that Australia is open to unlimited immigration. They talk about an influx of migrants and say that we must close the gates in order to protect ourselves from overpopulation. That is an untrue and superficial presumption. Australia's immigration laws and settlement plans are highly organised. The processes are regulated in a way most favourable to Australia and its interests. In conclusion, immigration has been good for this country, and New South Wales in particular will continue to welcome new immigrants.

Motion agreed to.

House adjourned at 5.42 p.m.

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