LEGISLATIVE COUNCIL

Wednesday 24 May 2000

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The President (The Hon. Dr Meredith Burgmann) took the chair at 11.00 a.m.

The President offered the Prayers.

BILL RETURNED

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

Evidence (Audio and Audio Visual Links) Amendment Bill

FIJI GOVERNANCE

Matter of Public Interest

The Hon. I. M. MACDONALD (Parliamentary Secretary) [11.04 a.m.]: I move:

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

> The political crisis in Fiji and the urgent need to end the terrorist coup against the democratically elected government of Prime Minister Mahendra Chaudhry.

The Hon. C. J. S. Lynn: Is this the view of Country Labor?

The Hon. D. J. Gay: What about the dairy industry?

The Hon. I. M. MACDONALD: I can see that the Coalition is going to treat this matter with the same lack of respect that it treats just about every issue that comes before this House. There is plenty of time for us to deal with rural New South Wales.

The Hon. J. H. Jobling: Point of order: It is my understanding that when debating a matter of public interest it is incumbent on the member to establish the urgency of the matter before he or she proceeds. The Hon. I. M. Macdonald is talking in generalities; he is not seeking to establish urgency. At this stage, without debate, we could not agree that the matter should proceed.

The Hon. I. M. MACDONALD: To the point of order: I was endeavouring to start my contribution to this important debate by outlining why the matter is urgent. Madam President, you will agree that I have faced considerable interjection from the Deputy Leader of the Opposition, the Hon. C. J. S. Lynn and other Coalition members on matters completely extraneous to this issue. According to the rules of debate in this place, a member can respond to issues raised by way of interjection. I was responding to interjections and, therefore, I was quite in order.

The PRESIDENT: Order! It is true that the first issue that has to be debated is whether the matter is urgent. However, it is proper that the importance of the issue be expanded upon in order to show that it is urgent business. The Hon. I. M. Macdonald may proceed.

The Hon. I. M. MACDONALD: I do not have to labour the point that this matter is of considerable importance and should be debated today. A fellow member of the Commonwealth Parliamentary Association, an elected Government from our region, has been potentially overthrown in what can only be described as terrorist circumstances. If we sit back and do not take a stand on this issue we will deny the right of constitutional democratic governments in our region. Given the severity and importance of these events, it is absolutely incumbent on the Chamber to debate this motion today.

Motion agreed to.

The Hon. I. M. MACDONALD (Parliamentary Secretary) [11.08 a.m.]: I thank the House for agreeing that this is a matter of great public importance. We should take this matter seriously. In January and

February 1999 I had the good fortune to visit Fiji. Through the office of the then administrator of the Fijian Parliament, Mr Chapman, I met Mahendra Chaudhry and his son Rajendra Chaudhry, who was his personal assistant at the time. I also met a number of members of the Labour Party. There were eight members of the party at that stage. I have noticed that one of the freed members of the Fijian Government is the member for Singatoka, whom I also met during that visit.

At that time the Labour Party was a very small party within the Parliament of Fiji, having only eight members, and the Soqosoqo ni Vakavulewa ni Taukei [SVT] party led by General Rabuka had a huge majority in the Parliament. During my two meetings with Mr Chaudhry it became clear that he was a man of great integrity, a great believer in the democratic rights of all people and a person who upheld a multicultural concept for his country. My first meeting with Mr Chaudhry lasted two hours, and my second meeting went for a little less than that. Throughout the discussions his commitment to the basis of democratic life as we know it—and as I think people throughout the world have learnt is the best possible system—was unwavering.

Honourable members will recall that Mr Chaudhry was a founding member of the Fijian Labour Party in 1985, that he was the finance Minister in the first Bavadra Government that was elected in 1987, and that he was then held in a coup led by Colonel Rabuka. Mr Chaudhry never wavered from his view that there should be a democratic Fiji in which people's votes were not weighed on a racial basis but on a multiracial basis as individuals. Throughout the 1990s Mr Chaudhry steadfastly rebuilt his party and participated in the discussions that led to the 1997 constitutional reforms in that country. Those reforms were meant to put to bed the multiracial problems facing the country. Clearly, a number of issues important to the Fijian indigenous community had to be addressed in that 1987 Constitution. Indeed, those issues were addressed, and there was some weighting in the Constitution towards the indigenous Fijian population.

However, the basic problem for the ultra nationalist groups that have taken part in this terrorist coup is the fact that the group of parties led by Prime Minister Chaudhry gained an overwhelming majority of seats in the Parliament, despite the weighting that was established to try to ensure that there was a substantial Fijian indigenous population vote within the Parliament. So it was a popular mandate. I remember this well because when I met Mahendra I was somewhat sceptical that Labour and its ally, the Fijian Association, could obtain the numbers to form a government. However, they were unwavering. Indeed, in my report on the Commonwealth Parliamentary Association visit to Fiji, which I presented to the Parliament a short time after I returned to Australia, I said:

> Ms Chapman introduced me to the Fijian Labour Party Leader, Mr Mahendra Chaudhry. I was fortunate in having two meetings with Mr Chaudhry. Ms Chapman's office assisted both and provided me with much needed transport for the second round of meetings. Mr Chaudhry was a most impressive leader. Polling in Fiji currently shows a marked improvement in Labour's position. It's now widely considered that Labour is a serious threat to the incumbent government in the forthcoming election.

I then discussed a whole range of issues of interest to Mr Chaudhry, in particular the Independent Commission Against Corruption. At that time a lot of publicity had been given to corruption in Fijian society and he was keen to look at the issue and address it with perhaps some form of independent commission in the longer term. I followed that up with Commissioner Barry O'Keefe when I returned to Australia and supplied the relevant material to Mr Chaudhry. My report further stated:

> Later in my visit I had further meetings with Mr Mahendra Chaudhry, the Labour Party's Research Officer, Mr Rajendra Chaudhry, and a number of other Members of Parliament. There is clearly a sense of excitement in the air about an enhanced position for the Fiji Labour Party at the next election in conjunction with their ally, the Fijian Association.

After these meetings I felt that the Fijian Labour Party would take great steps at the next election. That election was held in May and, as I said, the Labour Party won decisively. What disturbs me the most about this matter is that I would have thought that over the past dozen or so years following the coup that so damaged Fiji in 1987 to the early 1990s there would be a tremendous reluctance on the part of groups in Fijian society, including the Great Council of Chiefs, the Taukei movement and others, to throw their society into the sort of economic chaos that attends such events. Last year the association between Australia and Fiji was starting to reach its zenith in terms of mutual benefit, trade and social and cultural links.

Last year a record number of Australians went to Fiji on holiday. Indeed, overall a record number of visitors to Fiji ploughed many hundreds of millions of dollars into the Fijian economy. Many indigenous Fijian villages, particularly outside Suva, supply the work force to a number of highly successful resorts and holiday hotels and motels; many thousands of indigenous Fijians are engaged in the tourist industry. Clearly, events such as coups totally destabilise tourism industry development. Many millions of dollars were to be poured into further holiday development in Fiji. The indigenous Fijian community has played a significant role in terms of

that development. Such development sustains many communities and villages. Indeed, it provides employment in a society in which, unfortunately, employment has been increasingly difficult to obtain, except for a couple of industries. The service industry is an important base to which society can supply a work force.

This uprising will threaten and totally undermine confidence in the economy and further set back Fiji. In the end the people who will suffer the most will be the indigenous Fijians. Not only will the poor business men and women in Suva who had their livelihoods absolutely thrown asunder by a massive ransacking of their stores a few days ago be badly affected; the indigenous Fijians who supply much of the work force to the tourist industry in Fiji will be affected if there is a downturn in tourist numbers. No doubt there will be a significant downturn in tourist numbers following this coup. We must clearly tell the leaders of the coup—I am glad that the Australian Government has taken a strong stance—that there is no way out in the sense that in a democratic society they cannot hold the Prime Minister and Cabinet at gunpoint and succeed in any of their aims.

I was most heartened to see that the Great Council of Chiefs yesterday made it clear that it wants the Prime Minister released and that at no point will it allow the aims of Speight—the absolute criminal and terrorist who has led this attack on the Parliament—to be achieved. It is good to see that the Great Council of Chiefs has made it clear that neither Mara nor Chaudhry will be harmed in any way in this process. I am sure all honourable members would agree. It is difficult to conceive at this moment how this crisis will end. Unfortunately, it had all the portents of very grave, violent acts. George Speight is clearly an unstable madman who has run away with some sort of nationalist fervour, compounded by the pressure of the fact of his own questionable business activities finally coming before the courts in Fiji, and as a consequence there is a brew that is very difficult.

However, I firmly believe that patient negotiation and care for humanity on all sides will enable this crisis to be resolved without resort to the use of a gun. It absolutely appals me to read and hear reports of the gunshots in the compound, the pointing of pistols at Mahendra Chaudhry, and also the beatings that he has received. I find it absolutely incredible that this sort of behaviour is going on at this time. I hope that a negotiated settlement can be found—but one that does not give an inch to these absolutely terroristic assailants. I am also of the view that the Commonwealth Parliamentary Association, through its secretary-general, and the United Nations, through its envoy, may be able to help in this process of restoring democracy.

There is no question, as I am sure all honourable members will agree, that the democratic rights and the Constitution must be upheld. That Constitution, which took five or six years to bring together in the 1990s before being put into effect in 1997, won wide support. In the end, a minority of indigenous Fijians voted for the SVT. That is the absolute clear-cut situation. Hopefully, in the next few hours—certainly not more than a few days—this terrible event will be ended peacefully. It disturbed me to see that some elements of the army have been able to run amok in this way. [*Time expired*.]

The Hon. D. J. GAY (Deputy Leader of the Opposition) [11.23 a.m.]: On behalf of the Opposition I support the comments of the Hon. I. M. Macdonald in their entirety. There are very few occasions when I can stand in this House and say that I entirely agree with the Hon. I. M. Macdonald.

The Hon. J. H. Jobling: I bet this will be the only occasion.

The Hon. D. J. GAY: It may be the only occasion.

Reverend the Hon. F. J. Nile: It is an historic occasion.

The Hon. D. J. GAY: It is an historic occasion. The Hon. I. M. Macdonald is the left wing of the Labor Party and I am the left wing of the National Party, so I suspect that sometimes there is a degree of agreement between us. I congratulate him on not only the humanity of his comments but also his understanding of the situation. I have never visited Fiji, so my understanding of the situation is certainly not as great as his. However, I am sure that everyone who knows Fijians, both indigenous and Indian, understands the gentle feelings on all sides and how delicate the situation is.

The Hon. J. H. Jobling: They are not delicate on the rugby field.

The Hon. D. J. GAY: Some Fijians are not delicate on the rugby field, but I have noticed that they always smile as they pick you up. I heard with some relief in this morning's news that hopes are high for a resolution of the current coup in Fiji within 24 hours. Interestingly, the leader of the 1997 coup, Rabuka, hinted

today that there may be a resolution of one kind or another following the meeting of the Great Council of Chiefs, which is now in its second day. We can only pray that commonsense comes out of that. Some of the comments we are hearing indicate that that may be the case. I certainly hope that that is the situation.

I support the discussion in this House today about the situation that has developed in Fiji. However, I find it surprising that no matter how well the Hon. I. M. Macdonald has detailed this case, the first matter of public importance he brings before the House as a member of Country Labor relates to Fiji. In the last two years issues have arisen regarding water rights, riparian rights, the Environment Protection Authority, salinity, the dairy industry, and compulsory competitive tendering, but the Hon. I. M. Macdonald has been silent on them. I support this motion, but what was the honourable member's position on the issues? I find it surprising that following the budget Country Labor's first motion relates to what is essentially a Federal matter.

With regard to the Fijian situation, I agree with the Hon. I. M. Macdonald and denounce the actions of George Speight of launching this coup attempt based on racial prejudice. Speight has indicated that he has been planning this coup since the day Prime Minister Chaudhry came to office just over a year ago. He feels that indigenous Fijians have been isolated because of the appointment of an Indian-born Prime Minister, and claims that he has taken control on behalf of his people. I do not believe that that is correct. Despite George Speight's indications 12 months ago, it is obvious that he never intended giving the Government a chance. What has emerged over the past couple of days is a picture of Speight as a control freak, very driven, with strong ideological beliefs. However, by his own admission, he is not interested in long-term power. He is doing this to gain attention.

I should like to reflect for a moment on the Labor Party's stance on the current coup attempt, and indeed some of the party's ideas and strategies relating to the 1987 coup in Fiji. Just last Friday the Queensland Premier, Peter Beattie, said one of the most stupid things I have heard a State leader say in a long time. When asked to comment on the situation in Fiji, Mr Beattie put on his big, wide, stupid grin and became critical of the Pacific island as a holiday destination, suggesting that under the current crisis people would do better to holiday in far north Queensland. That is the contribution of the Premier of Queensland to this important and concerning debate. I am sure members on all sides of this House would regard those comments as silly. Peter Beattie is not a bad bloke. I suspect he would regret saying something as stupid as that.

Members may have read an interesting extract in yesterday's *Financial Review* which provides a little bit of history to some of our unfortunate understandings of what happens in other countries. The extract was taken from the doorstop novel entitled *The Hawke Years*, in which the former Prime Minister recounts the situation in 1987 when Colonel Rabuka made his move. The extract reads:

> It was a crisis which produced an amusing excess from Kim Beazley, the Minister for Defence, and Gareth Evans, acting as the Foreign Minister...they suggested that we should consider using a RAN helicopter to fly in, pluck the deposed Prime Minister, Timoci Bavandra, from the New Zealand High Commission, and have him whisked away to safety.

The Hon. R. S. L. Jones: Send in the gunboats.

The Hon. D. J. GAY: Send in the gunboats indeed. I think that at that time Kim and Gareth had been watching a few *Rambo* movies. Thankfully, commonsense prevailed within the Hawke Government and that did not happen. The Federal Government's stance on the political crisis in Fiji has been very measured and appropriate. This morning the Foreign Minister, Alexander Downer, gave a lengthy interview to ABC radio on the coup. The main point he made was that the preservation of the Fijian Constitution must be the bottom line in what is currently happening. Foreign Minister Downer said that the preservation of the democratic constitution, which Australia helped to draft, is the No. 1 priority. That was certainly the point that the Hon. I. M. Macdonald made in his contribution to the debate. Foreign Minister Downer also stated:

> If Fiji wanted to change their Prime Minister, as can happen in any Parliamentary system, obviously Parliament would have to approve of that.
>
> In other words it would have to be done in a constitutional way, and not down the barrel of a gun.

They are sensible words. Foreign Minister Downer has also sensibly recognised that there is nothing Australia can do militarily to resolve the Fijian crisis. He has stated that there is no role for foreign military intervention. As the Hon. R. S. L. Jones indicated a short while ago, there is not a role for Australians and gunboat diplomacy in the present situation.

George Speight is in a precarious position in that he still does not have control of the country's military, but he does have the Prime Minister and several Cabinet Ministers as hostages. I am disturbed that reported

comments indicate that the ultimatum given to those Cabinet Ministers was basically one of resign or enjoy a very short life. One can only hope that today's meeting of the Great Council of Chiefs can devise a solution to the current crisis. Speight has delivered his written list of demands to the council and so has the president. Democracy cannot be achieved with a gun. I hope that the meeting of the Great Council of Chiefs can support any move which will result in the end of the current crisis, return the Prime Minister and his Government to office and allow democracy to prevail supremely, without any loss of life. I and other members of the Opposition concur with the comments made by the Hon. I. M. Macdonald and congratulate him on the motion.

The Hon. J. M. SAMIOS [11.32 a.m.]: I support the motion—namely, that this matter of public interest relating to the political crisis in Fiji and the urgent need to end the terrorist coup against the democratically elected government of Prime Minister Mahendra Chaudhry be discussed forthwith. Australians await anxiously the latest news on the crisis in Fiji. We hope and pray for a peaceful outcome and the safety of all concerned. The Opposition joins the Federal Government in calling on George Speight and others who are responsible for the coup to release Prime Minister Mahendra Chaudhry, the other members of Parliament and any other hostages.

Prime Minister Mahendra Chaudhry was elected in a democratic process. Any challenge to his leadership should take place in a peaceful election and not in a coup. It is noted that President Ratu Sir Kamisese Mara, with the Great Council of Chiefs, has urged George Speight to release the Prime Minister and the other hostages. It is unfortunate that George Speight has attacked President Mara for the stance he took and has urged him to step down from his leadership. Honourable members might care to reflect on how fortunate we are in Australia to have social cohesion that is the envy of the world and draws from people of 140 nationalities and 230 ethnic backgrounds. All those people have been playing an important role in the social and cultural development of our nation. Australians also take pride in the fact that the Fijian and Indian communities in our multicultural society play their part in maintaining social cohesion.

Sadly, the events in Fiji also affect a member nation of the Commonwealth Parliamentary Association [CPA]. The history of the present Fijian Constitution is that it was apparently hammered out over a period of five years. This unfortunate coup has resulted in the Fijian Constitution being attacked by the insurgents. It is important for Australia, as a neighbour of Fiji, to persist with a steadfast approach in support of maintaining the Fijian Constitution. If George Speight had any commonsense in relation to this issue, he would realise that there is no way that he will be able to get away with his crime. The Great Council of Chiefs met yesterday and will meet again today. It is important for President Mara to maintain his influence on Mr Speight which will hopefully result in Mr Speight surrendering his position.

The protest march involving 5,000 people against the Chaudhry Government has prejudiced the commercial, cultural and tourism links that Fiji had with its neighbouring countries. It is important for Australia to recognise that tourism in Fiji has been damaged and that, in the interests of democracy and of restoring the Fijian Constitution, as one of Fiji' important neighbours we should do our utmost to ensure that the Fijian community resumes its normal day-to-day activities and maintains a happy relationship not only with Australia but also with the CPA and the rest of the world.

The Hon. J. S. TINGLE [11.38 a.m.]: I support, as I am sure most honourable members of this House would, the motion moved by the Hon. I. M. Macdonald and point out that embodied in the wording of the motion is the real key to the problem that honourable members are facing. The motion speaks of the urgent need to end the terrorist coup against the Fijian democratically elected Government and Prime Minister Mahendra Chaudhry. But the question is, in recognising the need, how we as members of this Parliament and Australians move to try to end what is an act of terrorism, as the Hon. I. M. Macdonald pointed out in his motion. I wonder how the situation has been allowed to reach a crisis.

The trouble that is reflected in the Fijian incident, if it can be called that, has been coming for a long time in Fiji and has been evident for a long time. As long ago as 1967 when I worked for ABC television news, I did a very long film interview with Ratu Sir Kamisese Mara. During the interview with me at that time he forecast that trouble would happen in Fiji in the future. He said the difficulty was the imbalance of the population and the resentment that the indigenous Fijians were feeling about the Fiji Indians, as they saw it, taking over the country. He said:

> Their birth rate is greater than ours. They will outnumber us. They are now taking over business and dominating commerce. While my people are laid-back and happy-go-lucky, and, for the time being, prepared to put up with it; while they have benefited from the presence of the Indian community in developing the sugar industry and all the rest of it, the day will come when they will suddenly discover that they are a minority in their own land.

That has been evident for a long time. I do not know whether we as Australians could have done anything in the intervening period to try to head of what we witnessed in 1987 with the Rabuka coup and what has happened in Fiji in 2000. As a journalist I get very angry when I hear the media talk about this as a "coup". It is not a coup: it is a criminal kidnap by a brigand—a man who is holding hostage members of the ministry which was democratically elected, whatever one thinks of the election process in Fiji, and who has paraded the Prime Minister of the country with a gun at his head before the world. In a democratic nation such as ours, one cannot sit at home and watch it happening on television and read about it in the newspapers and feel comfortable that one of our near-neighbours is undergoing the sort of agony and contortions that are being produced.

The Great Council of Chiefs, the traditional pre-eminent governing group, the deciders of the philosophy of that nation, is helpless. The chiefs are being held at gunpoint, too, because any action they take to try to free the Prime Minister and his Ministers is simply going to result in their deaths. This brigand, this criminal, who has done this for his own purposes because he is a dissident, has said, "You try to rescue them and they will die." As the Deputy Leader of the Opposition said, he has made it quite clear that he holds their lives very cheaply. The problem is what do we do about it? As theDeputy Leader of the Opposition said, this is not a time for gunboat diplomacy: The troops cannot be sent in. Any attempt at interference will result in the death of the Prime Minister and his Ministers.

But, we have to see our own position in the Pacific as a friend and neighbour of one of the most wonderful countries in the Pacific and, of course, a country where a great many expatriate Australians live and where thousands of Australians like to go for holidays and contribute in some small way to the economy of the country. We have to make a resolution now, in line with the motion put forward by the Hon. I. M. Macdonald, that we are going to put on our agenda a way to help this country in the future. We are helpless now but we have to look beyond the present situation, beyond the need to resolve it, to the time when it has been resolved.

As a nation we have got to become friends and counsel to the Fijians and offer them future aid to try to stabilise what is an horrific racial situation. Even though the proportion of Fijian Indians dropped off after the Rabuka coup, it is building again. This will happen again and again unless some wise counsel can be brought to bear to try to stabilise it, to straighten out the proportions and ensure that all Fijian people—not only indigenous Fijians but also Indians—are content and happy with the system of the election. There has been a question about whether the election process was totally understood by the indigenous Fijians. I do not know whether it was. All I can say is it is a damned sight fairer than the alternative, which is George Speight bailing up, kidnapping and holding hostage the Prime Minister and some of the Ministers of that country.

Our role in the future, after we have found the way to help to overcome this problem, must surely be to be a friend of this beautiful country and to make sure that it becomes stable because its stability will affect the stability of the whole Pacific region. It is a serious and grim situation very close to hand with us. The solution to this immediate problem will not solve the underlying problem. We, as a country, have to help them find a way to solve it.

The Hon. HELEN SHAM-HO [11.44 a.m.]: I support the motion moved by the Hon. I. M. Macdonald in relation to the political crisis in Fiji and the urgent need to end the terrorist coup against the democratically elected Government of Prime Minister Mahendra Chaudhry. As the Vice President of the New South Wales Parliament Asia Pacific Friendship Group, I support the motion. It is important that we maintain good relationships with our neighbour, as pointed out by the Hon. J. S. Tingle. I have never been to Fiji but I hope to visit there in the future and meet some members of Parliament.

I will highlight some of the major events so far that I know of. Some honourable members may not be aware that President Ratu Kamisese Mara has refused to guarantee that he will retain the Government of Prime Minister Mahendra Chaudhry after the crisis ends. Mara has taken a proposal to resolve the crisis to the Great Council of Chiefs. Following a security scare, Chaudhry was dragged out to the lawns of Parliament House and had a gun put to his head. Coup leader George Speight has admitted that Chaudhry was beaten up but denied that his men were responsible. Speight has warned foreign countries to stay out of Fijian affairs. Although he has said that he would retire if the chiefs do not support him, Speight has expressed his confidence in the Great Council of Chiefs.

The former Prime Minister and 1987 coup leader, Sitiveni Rabuka, has expressed sympathy with the coup attempt, but stated that he disagreed with its methods. Rabuka has revealed that members of a special forces army group were involved in the coup attempt. Fijian unions launched a national strike but later called it off to allow a political solution to the crisis. Although our Foreign Minister, Alexander Downer, declined to

demand Chaudhry's reinstatement, he stated his support for upholding the Fijian Constitution. Chaudhry's relatives in India have called on the Indian Government to rush commandos to Suva for a military strike. Mr Speight's demands, including a guarantee that the Prime Ministership be held only by an indigenous Fijian and the restoration of political supremacy to indigenous Fijians, will be considered by the Great Council of Chiefs.

I call upon all honourable members to support this motion and to condemn the unlawful detention of the Prime Minister and other members of his Government. Thirty-four members of the Fiji's People's Coalition Government, including five women, were still being held hostage yesterday by the coup leader and his gunmen at the Parliamentary complex in Veiuto. Among the hostages are the Prime Minister, his private secretary, the Deputy Prime Minister, the Attorney General and the tourism Minister. As previous speakers have said, the need for stability to be established in Fiji cannot be overstated. The best possible outcome of the Speight coup would still set back the economy by years and investment and tourism would be gravely damaged. More importantly, the basic trust that underlies multiracial politics will be profoundly damaged.

The Hon. I. M. Macdonald has said that the Prime Minister has the popular mandate. Mr Chaudhry is Fiji's first ethnic Indian Prime Minister, having won an overwhelming majority in the 71-seat Parliament in 1999 with his People's Coalition of Indian and Fijian Parties. Approximately 51 per cent of Fiji's 800,000 people are indigenous Fijians, approximately 44 per cent are Indian-Fijians and 5 per cent are other races. They are very multiracial. The taking of Mr Chaudhry and his Government hostage constitutes a fundamental violation of human rights and, as pointed out by the Hon. J. S. Tingle, it is a criminal act.

Moreover, if a democratically elected government is overthrown by violence, the only appropriate response is for the international community to condemn that action. This is why I ask all honourable members to join me in condemning the Speight coup attempt and, more specifically, in appealing for the release of the Fijian Prime Minister. I support the motion moved by the Hon. I. M. Macdonald.

The Hon. I. COHEN [11.50 a.m.]: I strongly support the motion moved by the Hon. I. M. Macdonald. I commend the honourable member for moving the motion. The honourable member told the House that he had been to Fiji and had spoken with the kidnapped Prime Minister. The Greens, as members of an international movement, are collectively appalled at this departure from a respectable democracy. This is not the first time that it has happened in Fiji. This is a repeat of Sitiveni Rabuka's action some years ago in deposing the democratically elected government of Timoci Bavandra. That was an insult to all those who cherish freedom and want the preservation of democracies, particularly in this region of the world.

It is very sad that Mr George Speight, who has been variously described but is little more than a thug, has sought to depose the democratically elected Prime Minister of Fiji, Mr Mahendra Chaudhry. There have been newspaper reports of George Speight's guards leading the Prime Minister into the gardens of Parliament House in Fiji, putting a gun to his head and threatening to shoot him. That must be abhorrent to any fair-minded person anywhere in the world. That it is happening in an area so close to Australia is an absolute abomination. I am pleased that the Howard Government has reacted appropriately to these events. This attempted coup will have a damaging impact on the people of Fiji, be they of Indian descent or indigenous Fijians, because there will be a resultant downturn in tourist numbers.

This attempted coup shows what a megalomaniac George Speight is that he could take this type of action and jeopardise the economic wellbeing of so many people in the Fijian community—including the economic wellbeing of his own people, the indigenous Fijians. The actions of George Speight will have an ongoing adverse impact on Fiji. Recently I was in Fiji and spoke to many people, both indigenous Fijians and Indian Fijians. They saw the election of the existing Chaudhry Government as a direct reaction to the Rabuka regime, which was becoming more and more corrupt. That regime had used the excuse of indigenous land rights to perpetrate on the Fijian people a system of government that was very corrupt. It existed on the principle of it is not what you know but who you know, and on a circle of acquaintances that Rabuka had placed in positions of power. They were making a great deal of money from the Fijian economy.

The Rabuka regime succumbed to a popularly elected Labour Party Government, which would not have been elected without the support of indigenous Fijians. It was not only ethnic Indians who gave that Government its mandate to rule; the Government also needed the electoral support of indigenous Fijians who were sick of the corruption of the Rabuka regime and felt it was time for change. That happened. We now have in Fiji a kidnapping of a Prime Minister and the attempted armed takeover of a country, with images of men toting guns and wearing balaclavas. In such a tropical paradise, that really is a very sad state of affairs. As the Hon. J. S. Tingle said in the House, it is not a coup, it is thuggery. The Greens concur in that view. It is

reasonable to say that George Speight is a megalomaniac. He is an unstable person who is obviously not thinking through the political, economic and moral consequences of what he is doing. As time unfolds, attempts will be made to find a political settlement. I refer honourable members to an article in the *Sydney Morning Herald* which stated:

> Fiji's all-powerful traditional chiefs last night demanded coup leader George Speight release almost 30 MPs he has been holding at gunpoint for the past five days.
>
> But the chiefs' support for the country's President, Ratu Sir Kamisese Mara, appears certain to be conditional on ousting the country's first Indian prime minister, Mr Mahendra Chaudhry ...

It is very sad that there could be even tacit support for the overthrow of a democratically elected government. The article continues:

> ... the chiefs want changes to the Constitution that will restore power to indigenous Fijians.

I understand that there has been a long history of this indigenous group having a great deal of power. I quote again from the *Sydney Morning Herald*:

> The Great Council of Chiefs has advised the governments of colonial and independent Fiji for more than 125 years. It was created as the Native Council in 1875 by Sir Arthur Gordon, the first British governor following Fiji's cession to Britain the previous year.
>
> Hereditary chiefs bearing the title "ratu" from throughout Fiji's 320 islands first convened in 1876 and advised the governor on land tenure and customary laws that were incorporated into the laws of the new colony.

This has been a long and ongoing tradition. Whilst it has little legislative power, the Great Council of Chiefs retains a great deal of moral authority over the indigenous Fijians. It is important that that council moves to accept that Fiji has a democratically elected Government and that the way to win over that Government is to form an opposition within the framework of a democracy and work for change. Whilst there are many faults in such a democratic system, it is the only way in which to ensure that this type of event does not happen. Giving any sort of tacit support to George Speight and his thugs is totally inappropriate. They have trampled on democracy in a very beautiful but very fragile area of the world.

This is a country that has a great deal to offer and a country with which Australia has a close relationship. It is a place that many people, including myself, loved to visit from time to time, making a positive input to the Fijian economy while enjoying the Fijian society and its traditions. An event such as this will have dastardly effects on the people of Fiji. I as a Green and as a member of this House join the Hon. I. M. Macdonald in his call for a political settlement to this issue. The New South Wales Parliament should voice its total abhorrence to violence in a political system, and acknowledge that a democratically elected Government should be given its right to govern.

This type of action, if it succeeds in any way, be that by recommendation of the Great Council of Chiefs that the present Government go, will add to the propensity for corruption in the Fijian society. That, in turn, will undermine its goodwill in the international community, resulting in the Fijian people suffering far more in the coming years or generations from these types of actions. Confidence can only be restored if the democratically elected Government is restored to power. George Speight should be thrown into gaol for his inappropriate gambling not only with the lives of politicians but also with the wellbeing of the people of Fiji.

The Hon. R. D. DYER [12.00 noon]: I support the motion moved by the Hon. I. M.Macdonald. I have observed with much interest and a great deal of sadness and concern the events of the last week in Fiji. I use the word "sadness" because I have visited Fiji on a number of occasions, although unfortunately not for many years now. In fact, my wife and I spent part of our honeymoon in Fiji, so I think I am entitled to view Fiji with a great deal of affection. I have a great regard for the Fijian people and their relaxed and warm lifestyle.

As an illustration of that relaxed lifestyle, let me tell honourable members briefly that on an occasion when my wife and I were waiting for a bus at a hotel near Nandi we ordered two cool drinks, it being a hot day, as one might well expect in Fiji. We had hardly had a sip of the cool drinks before the bus arrived. I immediately stood up and rushed towards my bags. A hotel employee who observed me doing this said, "What are you doing?" He said, "Who is paying? Is the bus driver paying you, or are you paying the bus driver?" I said, "I have to confess that I am paying the bus driver." The hotel employee said, "That being the case, finish your drinks and the bus driver will wait for you."

That is an illustration of the fine quality of the Fijian people, such is their relaxed and happy attitude towards life. Having regard to that background I am even more saddened than I might otherwise be about the

events of the past week. Let me refer to Fiji's political dimensions. Fiji emerged from the disruption, so to speak, of the two coups staged by Colonel Rabuka. Recent democratic elections produced a multiracial government elected with a substantial majority representing not only Indians but also Fijians. Having regard to those recent developments, it is sad and concerning that George Speight has taken the law into his own hands and staged what previous speakers in this debate have referred to as criminal actions. There is little doubt that that is the nub of the matter—that this man has acted in a criminal way.

It is probably not a very accurate use of language to refer to these events as a coup because Mr Speight appears not to have the general support of either the armed forces or the police in Fiji. It appears to me that a central issue that has led to the recent tensions in Fiji is land title or land tenure. Honourable members would be aware that Fijian land is vested in the native people and that the land is leased to, in the main, Indians who grow cane. It is my understanding that many of the leaseholds in Fiji are nearing their expiry date. That has given rise to a great deal of tension and has given impetus to the street demonstrations mounted in Suva, mainly in recent weeks and months by the Taukei movement.

History is history. The Indian people are now just as entitled to reside in Fiji as are the native residents. The Indians went there as indentured labour last century, but through their hard work and effort they have contributed in many ways to the prosperity of the Fijian economy. Cane production is perhaps the most prominent example of the hard work that the Indian people have put into the economy of Fiji. I hope and pray that the Fijian and Indian people can resolve their differences peacefully and that the current constitutional crisis can also be resolved peacefully.

I have considerable faith in the President of Fiji, Ratu Sir Kamisese Mara, who is a founder of Fijian independence and who has played a lengthy role in the governance of Fiji. It is interesting to note that Ratu Mara's daughter, a Minister in the Chaudhry Government, is one of those being held captive at this moment. The Great Council of Chiefs met yesterday and their meeting is continuing today. Although this is a highly complex and sensitive issue I hope that the Great Council of Chiefs and all people of goodwill in Fiji can bring about an early and peaceful resolution to this most unfortunate matter.

Australia cannot send in gunboats or take any other dramatic or precipitate action. However, Australia could be described as a superpower in the South Pacific area and we can certainly use our good offices to endeavour to bring about a peaceful resolution of this matter. Australia has a long history of endeavouring to help the people of Fiji and other South Pacific countries through aid programs, trade and other methods. That approach is certainly available to us, and I have no doubt that those efforts will continue.

Foreign Minister Mr Downer and the Federal Opposition have made supportive remarks regarding the democratic Government of Fiji. I join with those remarks and express the firm hope that what can only be described as the criminal actions of Mr Speight can be resolved peacefully and that a political accommodation can be arrived at between all parties in Fiji that will lead to the restoration in government of the democratically elected and multiracial Government of Fiji.

Reverend the Hon. F. J. NILE [12.08 p.m.]: On behalf of the Christian Democratic Party I support the motion moved by the Hon. I. M. Macdonald, which is in the following terms:

> That the following important matter of public interest should be discussed forthwith:
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> > The political crisis in Fiji and the urgent need to end the terrorist coup against the democratically elected government of Prime Minister Mahendra Chaudhry.

I support what other speakers have said about the overthrow of the democratically elected government. Political matters cannot and should never be decided through the barrel of a gun. Clearly, in this case Mr Speight was able to organise seven people dressed in civilian clothes, wearing black hoods and armed with AK47 assault rifles to invade the parliamentary compound in Fiji and enter the Chamber of the Fijian Parliament. They then locked the Prime Minister and Cabinet Ministers in an upper room of the building.

We note, thankfully, that some members of Parliament have been released for various reasons, including health reasons. I am sure it is the prayer of every member of this House that all members who are being held will be released immediately and that the rule of law and the democratic processes will be restored to Fiji. It is clear that over some time, because of the previous two coups that occurred in 1987 by then Major-General Rabuka, there has been a great deal of racial tension in Fiji between the indigenous Fijian population and the Fijian Indian population.

During 1987 my wife and I were invited to Fiji to conduct some seminars and meetings on the theme of God and politics. When we were planning to go the first coup occurred and we had to seek clarification as to whether it was safe to travel to Fiji. We were given those assurances, so we went. Following our return there was a second coup. We noted that during the first coup some violent threats were made and actions were taken by indigenous Fijian people against the Fijian Indian community. Mr Speight has cleverly exploited the fears that some Fijian people have. It is not difficult to exploit those fears and fan those racists flames and cause an explosion, as has occurred in Fiji.

It would seem that Mr Speight and his small group of supporters used the peaceful march of 5,000 people through Suva that was organised for that morning. They were exercising their democratic right to protest against some of the decisions of the Government. That was a peaceful protest but it provided a cover during which Mr Speight and his group moved into Parliament House. It has never been clear, and is still not clear at this moment, whether any significant leadership was behind Mr Speight or whether he was acting on his own. I have suspicions that he was acting more as an agent for other forces in that community.

I understand that when they were racing towards Parliament House one of their vehicles was stopped by the police for speeding and then allowed to proceed. No attempt was made to find out where these men were going in such a hurry or even to inspect the vehicle, in which there were military weapons. Again, some reports have now come through that those weapons were removed—not stolen, but taken—from an armoury of the Fijian army and that others co-operated in supplying them. That is a very serious matter that indicates that more forces may be at work than appeared initially.

However, we must acknowledge that indigenous people around the world have concerns and fears about other races having moved into their countries. That includes the indigenous Aboriginal people of Australia. Obviously they have tension about that, and they use the word "invasion" to describe what happened here. Over the years I have visited a number of other nations, including Fiji a number of times and Western Samoa and Hawaii. In each of those nations indigenous groups want to restore their authority over their nation. It is not very easy to turn the clock back when there have been historic changes and other racial groups, including European people, have moved in.

The Hon. R. D. Dyer said that one of the tension points in Fiji has been that under the British rule at the end of the 1800s and the beginning of the 1900s many Indians came to Fiji as indentured labourers to work on sugar plantations. They were very industrious and successfully built up sugar plantations and eventually leased plantations and built their homes on them. Technically and legally the land belongs to the original Fijian owners. The point was reached—this was raised in discussions when I was there—when some Fijians who were not very fair or generous were saying, "Thank you very much for developing this sugar plantation, but we want the land now. It is your problem, you just move off." The only concession some were prepared to make was to let them keep the house they built and a small piece of land around it, which meant they would have an isolated house on a Fijian landowner's property. That is one of the problems that the Fijian Government, now led by the Labour Party, will have to resolve. That is a contentious issue on its agenda at the moment.

It will not be easy to resolve the situation but both the indigenous Fijians and the Fijian Indians have to recognise the 40 per cent or 50 per cent breakdown in that nation, and they have to live together and develop a multiracial or multicultural society, as is happening in Australia. I had the opportunity of speaking at the national prayer breakfast in 1988, at which the leader of the Labour Party, Mr Bavadra, was present. My theme then was to promote a united Fiji, a united nation. It was good to see Fijian Indians, indigenous Fijians and members of various political parties gathered at that national prayer breakfast. That was the first prayer breakfast they had held.

I note that the man who drafted the current Constitution, Professor Brij Lal, is suggesting that the only way to solve the present problem is to have a fresh election to clear the air, regardless of the outcome of Mr Speight's coup attempt. That is an interesting proposition. We shall pray for wisdom for the Great Council of Chiefs and other leaders so they can rapidly decide how they can restore the elected Government and democracy in Fiji.

The Hon. R. S. L. JONES [12.17 p.m.]: I strongly support the motion of the Hon. I. M. Macdonald. I feel the same sadness that other honourable members have about the challenge to democracy in Fiji yet again. This latest event—it is not really a coup, after all, at this point—is a continuation of the 1987 coup, which really was a coup, and the leader of that coup is now the chairman of the Great Council of Chiefs. This time, luckily, Sitiveni Rabuka is behaving in a more statesmanlike way than previously and is following the lead of the President, Ratu Sir Kamisese Mara, and asking for the release of the Prime Minister and other Ministers. So, hopefully there will be an end to this situation shortly.

It seems to me clear from what I have been reading that this bizarre character George Speight, who seems to have taken an opportunistic position in putting himself at the head of the coup and declaring himself Prime Minister, President and whatever, is not the main or real mover behind this coup. Rather, the coup is being led by the counterrevolutionary warfare unit, which is Fiji's crack unit that was formed after the 1987 coup. The real person behind that unit is not Sergeant Tikotani, who calls himself Commander Vili, but the former Fijian army colonel Mr Ilisoni Ligairi. He was trained by the British Special Air Service. He is the man behind the scenes giving the orders, so he is the person that the Great Council of Chiefs have to try to pull into line. It is clear to me that the counterrevolutionary warfare unit should be disbanded when this affair is over, because its members have been disloyal to democracy and to the people of Fiji by effectively denying them democracy.

Reverend the Hon. F. J. Nile: They were set up to stop any future coups.

The Hon. R. S. L. JONES: They were set up to stop coups and now they are in the middle of a coup. Clearly, the unit, which has been operating with the Australian Special Air Services, the British and others, must be disbanded, and something else must be set up to prevent another coup in another 10 or 12 years. The 1987 coup led to a large number of Indian Fijians leaving the country, and 70,000 to 80,000 Fijian Indians now live in Australia, some of them partly as a result of that coup. It is clear that a large number of Fijians of Indian descent are trying to leave the country now. No doubt some of them will end up overstaying in Australia as a consequence of this coup. It is a pity the indigenous Fijians and Fijians of Indian descent cannot live together happily. Obviously, the Fijian Indians can live together happily. The Indians in Fiji and in the other countries I have visited are very hard working and tend to become reasonably wealthy.

Indigenous Fijians have a slightly different lifestyle, as do, for example, Malaysians of Malaysian origin who complain about the Malaysians of Chinese descent and Malaysians of Indian descent. They have a more relaxed attitude to life, whereas many Indians work very hard, become reasonably wealthy and then tend to take over land and businesses. If they did not do that the Fijians would have the land but not the businesses. The coup is about land rights, land tenure, rents and so on. One would hope that when the situation is righted and the Prime Minister is freed, the Prime Minister will perhaps decide to resign and an election will be held. The only way out of the current situation is probably to have an election; and perhaps Mahendra Chaudhry will be re-elected as Prime Minister and the situation will return to normal.

However, we do not know whether the situation will return to normal. The trouble is that the same tensions will still exist. One would hope that there is a way to resolve these land tensions. In the mean time Australia should open its arms to the Fijians of Indian descent who wish to come here to live, because they have proved to be very good citizens. The number of Fijians of Indian descent who fled the country after the 1987 coup shows that the Fijians were in the majority. One idea is to try to get the Fijians of Indian descent to leave the country, as no doubt they want to because they do not want their businesses destroyed and their lives disrupted by coups every few years.

I feel sad for the Fijians of Indian descent who have been very successful in Fiji. I am one member who has been to Fiji. I had a good look at the country and it was a very peaceful place when I was there. No doubt it is still peaceful on most of the islands. I hope that the situation is resolved in the next 24 to 48 hours and that the Great Council of Chiefs will prevail and ensure that the Prime Minister and the Ministers are released without any bloodshed.

This George Speight character is not the coup leader, but he pretends he is. He has put himself in that position. He is simply a spokesperson for the military. I hope he gets his comeuppance and ends up in gaol for a very long term. He has his own financial interests at heart, and they are not necessarily the same interests as those of the Fijian people. I congratulate the Hon. I. M. Macdonald on moving this motion. Honourable members hope that the situation in Fiji, which is our neighbour, will be resolved and that democracy and peace will once again prevail. Undoubtedly the coup will damage tourism and the Fijian economy, as it already has with the ransacking of a number of Indian-owned businesses. It will take another few years for those businesses to recover, so all Fijians will pay financially for this coup.

We hope that the Fijian people get back to normal shortly, that the matters that caused this coup in the first place can be resolved in a peaceful way with dialogue between the Fijians of Indian descent and the indigenous Fijians, that there will be an election shortly—perhaps Mahendra Chaudhry or an indigenous Fijian will be elected as Prime Minister—that the counter-revolutionary warfare unit will be disbanded, and that those who are responsible for this insurrection will be tried.

The Hon. Dr A. CHESTERFIELD-EVANS [12.24 p.m.]: The Australian Democrats' perspective on the coup in Fiji is that it is, effectively, terrorism. I have been in touch with Senator Vicki Bourne, who is our spokesperson on foreign affairs. She said that the attempt by George Speight to overthrow a legitimate and democratically elected government is doomed to fail. He does not have the support of the military, the police, members of Parliament or the people. He should end the siege now before there are any casualties and before the ongoing situation harms the Fijian economy, particularly its vital tourism industry.

The strike called by the Fijian Trade Union Congress indicates that Mr Speight is not acting in accordance with the will of the people. People are on strike in protest against Speight's attempted overthrow of the legitimate Prime Minister, Mahendra Chaudhry. The meeting of the Great Council of Chiefs is vital to resolving this crisis. I hope Mr Speight takes notice of any resolutions that come out of that meeting and allows democracy and the rule of law to prevail. The problem is that Speight has taken parliamentarians as hostages. Should he win concessions through this tactic, obviously there is a danger of further instability if he is perceived as having succeeded. On the other hand if he is not given some concession, obviously there is a danger that he will simply shoot the members of Parliament he does not like. This is a difficult issue for the chiefs. Fiji has a good Constitution and it must be maintained; race cannot be used as an excuse to split the nation.

If we are to be honest we need to address the issue of race because, effectively, George Speight is trying to promote the idea that ethnic Fijians are the legitimate owners of the country and the Fijian Indians are interlopers. Certainly, the Indians who were brought to Fiji are a product of the English colonial period, during which Indians were brought to Fiji as labourers, beginning in 1879. Since then they have become established in commerce, politics and the middle class. They number slightly more than the ethnic Fijians, and they tend to dominate business. However, regardless of all that, they have been greatly criticised, and they have had similar problems in Malaysia, Uganda and Singapore.

As a result of changes in demographics and corruption, which some Fijians were tired of, the Fijian Indians elected the first Prime Minister of Indian descent, Timoci Bavadra. However, he was toppled in a similar coup by Sitiveni Rabuka. The resolution of that coup was a setback for democracy in Fiji. In a sense, the election of Mahendra Chaudhry meant that once again there were free elections and a Fijian Indian was elected on his merits by ethnic Fijians and ethnic Indians to head Fiji. The cultural differences must be addressed. I do not think anyone would dispute that those differences exist; nor do people dispute that they must be addressed. However, they must be addressed in a framework of intelligent co-operation and recognition of the differences, not simply the entrenchment of one racial group over another in a position of superiority unrelated to economic or other circumstances. That would result in a smouldering problem in the long term.

I have visited Fiji. It is a very enjoyable place to go for a holiday. No-one could dispute that the climate is wonderful, the people are extremely friendly, and the communal aspect of traditional Fijian society is wonderfully warm and supportive. Children are looked after by the communal group, there is lots of communal singing and dancing, and there is a real sense of community within the traditional Fijian villages. The commonness of property is very supportive and delightful, and obviously came out of the history of a Pacific people living from the land. When Fijians come into contact with a Western culture that is individually oriented with trade it becomes quite difficult for them.

Interestingly, when I visited Fiji I was advised that I should not give my address to any locals. I was told that when Fijians came to Australia they would expect to stay in my house, more or less indefinitely. Indeed, a Fijian family who are friends of my wife had to change their surname to Smith when they came to Australia, just because it was the most common name in the phone book! Too many relatives were staying with them for too long—they simply could not set up their own house in Australia. This example illustrates the cultural difficulties when a Western approach meets a far more sharing, village-based economy. To ignore these things is politically correct, but it does not go far towards addressing Fiji's difficulties.

I do not wish to prejudge George Speight on the basis of the newspaper reports, which is all I know. However, he is a businessman and one cannot help wondering whether he has benefited from some imperfections in the tendering process which may perhaps favour a person of one ethnic origin over another. George Speight's populist rhetoric appealing to racism within Fiji and showing complete contempt for the democratic process is unlikely to help Fiji resolve its difficulties. Fundamentally, his behaviour is that of a terrorist and a thug. I am not able to comment on whether his business interests in Australia—which involved selling schemes that seem to have been, at best, dubious—have been maintained in the businesses he has run in Fiji. However, the suggestion was made in the Australian press that the schemes were highly dubious.

The Australian Democrats' position is that Mahendra Chaudhry should be reinstated and that the Great Council of Chiefs should not give in to terrorism—although, of course, that is difficult to organise given the fact that the Prime Minister literally has a gun at his head. I believe that Australia must look seriously at taking in Fijians who have had their businesses destroyed as a result of looters taking advantage of the political instability.

The Hon. J. H. JOBLING [12.33 p.m.]: I wholeheartedly support the motion moved by the Hon. I. M. Macdonald regarding the urgent need to end the terrorist coup against what is a democratically elected government in Fiji—one of our Pacific neighbours—and the Prime Minister, Mahendra Chaudhry. The holding of members of Parliament at gunpoint and threatening to kill them can be deemed to be nothing but terrorism. We have seen democracy in Fiji, and we have seen the people elect their government. People of all spectrums, races and religions in Fiji have chosen by a majority decision to elect their government. Like other members, I have also visited the Fijian islands. Fiji is a lovely place, comprising many islands. Fijians are a happy and friendly people who take pride in meeting people.

The problem with the current coup—it is something that I absolutely deplore—is its potential for long-term hatred and great instability for a beautiful group of islands. It is a problem that we must address, because Fiji is one of our near neighbours. The sole cheerful point that has emerged in the last 24 hours is the fact that the all-powerful traditional Great Council of Chiefs has demanded that the coup leader and head terrorist, George Speight, release the 30-odd members of Parliament that he has been holding at gunpoint for five days. I express great concern at the report that suggests that the Prime Minister, Mahendra Chaudhry, was beaten and brutalised by Mr Speight's gunmen inside the compound of the Parliament. I cannot see how anyone but George Speight and his cohorts can be blamed for what has occurred. It is indeed a major problem.

The world community has largely condemned the coup. The United Nations has clearly stated that it condemns Koffi Annan. The Commonwealth Secretary-General, Don McKinnon, and his special envoy have expressed concerns to Ratu Mara in this regard. People from all over the world have clearly made their views known. Last Monday the United States of America called for the release of the Prime Minister and warned of substantial consequences for Fiji's relations with Washington if a constitutional settlement—I stress, a constitutional settlement—were not reached. Papua New Guinea condemned the ongoing coup attempt, but urged its Pacific neighbours to address the underlying causes.

New Zealand, by a unanimous vote in its Parliament—as I hope will happen this afternoon in this House—condemned the actions of George Speight and his armed gang. I note that our Federal Minister for Foreign Affairs, Mr Downer, has considered a number of options and is watching events very carefully without making precipitous statements. I note also that the Federal Government is considering the downgrading of ties and the withholding of aid to the various areas. I would be happy to learn that the reports that the powerful chiefs are going to reject the coup leader, George Speight, are correct. Clearly, it is a most deplorable incident. I wholeheartedly support the motion and I urge honourable members to support it unanimously.

The Hon. A. B. KELLY [12.36 p.m.]: I also support the motion moved by the Hon. I. M. Macdonald. I deplore the actions of George Speight, the terrorist and crook who has been caught out by the Fijian Government. I visited Fiji last year and I met a number of these people, including the Prime Minister, the President, and a number of ethnic Fijians who voted for the Government. This is not purely an ethnic issue. I implore the House to unanimously support the motion.

The Hon. JANELLE SAFFIN [12.37 p.m.]: I strongly support the motion moved by my colleague the Hon. I. M. Macdonald. I strongly condemn the terrorist, George Speight, for his actions. I strongly support the Prime Minister of Fiji, Mahendra Chaudhry, and the democratically elected Government. I strongly pledge my support for the constitutional government. I convey sympathy to the Prime Minister, the Cabinet Ministers and members of Parliament and their families who are in a very dangerous situation. I am encouraged by the comments thus far from the Great Council of Chiefs, and I hope that the council continues to be guided by wisdom in this very difficult situation. I am pleased with the responses thus far from everyone in Australia, including the Federal Government, the Federal Leader of the Opposition, and the Australian Council of Trade Unions.

This is an issue of great importance to us because we, as a democratically elected Government, have a duty and obligation to speak out in defence of democracy, particularly when the institution of democracy is threatened as it is in this case. One of the tragedies in Fiji is that, in a sense, the coup that occurred in 1987 set in train a pattern that is easily continued. When one looks at countries that are dominated by military governments,

dictatorships or authoritarian governments which experience periods of democracy, coups and dictatorships it is easy to see how that pattern set in 1987 could be easily followed. Although what happened in 1987 was not as dramatic as the current coup, it was still a coup. It set in train the pattern for what happened the other day when the terrorist, George Speight, accompanied by his thugs and goons, with rifles and military might, took over the Fiji Parliament. Obviously he was not in a position to be elected. Perhaps he may have found it a little difficult if he had gone to the polls to be elected in his own right in a democratic way, so he chose to do it with guns.

It is not that I do not have sympathy for indigenous Fijians or the issues and problems that they face; rather, there are other ways to sort them out. In the context of my involvement with East Timor, I recently read the Fijian Constitution, which is a good, democratic constitution. It could be improved, which would have been a better approach to change than has been the action taken by George Speight. He says that he takes issue with the Constitution and that he represents many people. I am sure that he represents a view when he says that he represents many people but I am not sure that people would actually want to march into Parliament and take over with rifles. A better way—and, really, the only way—to preserve, protect and consolidate democracy is to effect change through constitutional means.

In an article in today's *Australian*, Robert Garran, the newspaper's foreign affairs writer, referred to Australia's surprise at the recent events in Fiji. I was actually surprised that Australians were surprised. Over the last few weeks even a cursory observation of events unfolding in Fiji would have led one to the view that the situation was about to explode. The indicators showed that tension was not only brewing but building and that there was a feeling, climate or environment developing which indicated not only to me but also to a lot of other people the volatility of the situation. As I said earlier, although a coup occurred some time ago, it was precursive of the present crisis and Fijians witnessed that event. Following that coup everything normalised and Fiji once again had a democratically elected government and Constitution, but the pattern had already been set for the current crisis. I was surprised that Australians were expressing surprise at its occurrence. As far as Australians involved in intelligence is concerned—

Reverend the Hon. F. J. Nile: It must be non-existent.

The Hon. JANELLE SAFFIN: I think so. I can only wonder at which direction the heads of Australian intelligence personnel were turned and what they were looking at. I do not know what they have been reading. Although I do not recall the exact words, Robert Garran also referred in his article to a typically Gareth Evans comment about intelligence when the previous coup occurred and he was Foreign Minister. I conclude my remarks by reiterating my strong support for my colleague's motion.

The Hon. Dr P. WONG [12.44 p.m.]: I fully support the motion moved by the Hon. I. M. Macdonald and I also strongly condemn the coup conducted by Mr Speight and his terrorists. I believe that violence can never be a solution to a political crisis and that democracy can never be achieved at the point of a gun. There may be social and economic differences between different racial and ethnic groups who live in the same country, but that can only be overcome through a constructive legal and political process that allows all groups to participate in the decision-making process, and Fiji had such a process in place.

As someone who lived in Indonesia for 10 years and witnessed racism and discrimination, I have seen the collapse of a political and economic system. Indonesian President Wahid has tried to reconcile different ethnic groups and he has been successful to a certain degree. However, it has been a hard row to hoe. As the Hon. Janelle Saffin mentioned earlier, when a system has broken down, it is hard to continue as before. Therefore, I fully support the motion moved by the Hon. I. M. Macdonald and I pray that the crisis will be resolved by reinstitution as soon as possible of a democratic government in Fiji.

The Hon. I. M. MACDONALD (Parliamentary Secretary) [12.44 p.m.], in reply: I thank all honourable members who participated in the debate. I shall deal with some of the issues that have been raised. It seems that the Chamber clock has gone rather haywire, resulting in an extension of the debate. That is a good example of technology working for humanity by providing the representatives of the people of New South Wales with the opportunity to cram more into this debate than technically would have been possible if the clock had been working properly! Last year I received a letter from the Secretary to the Fijian Cabinet, Mr Mataitini, which stated:

> The Prime Minister is aware, and is humbled, by the immense responsibility placed on his shoulders by the people of Fiji to guide the nation to a future of hope, stability and unity. But it is a sacred task he and his Cabinet are determined to achieve by remaining committed to the ideals which have enabled them, thus far, to overcome the many trials and disappointments over the years. Above all, he will ensure that in all Government policy implementation, the interest and welfare of all the people of Fiji will remain a paramount consideration.
>
> The Prime Minister is very appreciative of your gesture, and is confident of your continuing support in the future. He extends to you and your staff and families his gratitude, along with the hope that there will be opportunities for more interaction.

That letter clearly indicates three of the most important features of the Mahendra Chaudhry Government. The first is that policies will be put in place to assist people across the board, not just one group. The second is that such policies will lead to stability, which is an element that is of vital importance to the future of Fiji if it is to survive effectively—

The Hon. J. H. Jobling: And to the rest of us.

The Hon. I. M. MACDONALD: —and to the rest of us in the region. The third element is unity, which is a stage that must be reached. Last year's election results in Fiji indicate that there was a great deal of unity involved in the election of the Chaudhry Government. An analysis of the election results reveals that the Labour Party won 38 seats out of 71 and the Coalition won 53 seats altogether. Of the 38 Labour members, eight are ethnic Fijians and 30 have an Indian background. In a Cabinet of 18 members, 11 Cabinet appointees were ethnic Fijians. In other words, the majority of the Fijian Cabinet is comprised of ethnic Fijians. Of the five Ministers in the outer Cabinet, two are ethnic Fijians. In a Cabinet with a total of 23 Ministers and Assistant Ministers, including the Deputy Prime Minister who is also an ethnic Fijian, 13 positions are held by ethnic Fijians. After the election, the Government contained an inherently balanced representation of the Fijian communities because the Cabinet had a majority of ethnic Fijian members.

The heart of the problem that is occurring in Fiji currently is that for a period in excess of 12 years a number of people benefited from the SVT Government. Those people also benefited greatly from the time when there was very little democracy in Fiji but now have to compete on what is probably a more even playing field to play their role in society and to conduct their business activities in a climate of growth and development. They realise that there had been a turnaround in the democratic system of Fiji. The Government has taken a number of policy decisions that have greatly benefited ethnic Fijians. For example, there is a program of handing back to ethnic Fijian people land that had been used in the sugar industry and owned by members of the Indian community, and payment of compensation to the owners of approximately $22,000. In other words, the land and the industry's capacity to produce a return was given to the ethnic Fijian community.

Undoubtedly, the transition period has been accompanied by frustrations including cutbacks to businesses and Government programs, but that cannot be other than an expected result of the development of the Fijian economy, which has necessitated an increase in the range of business activity and governmental programs. In the process, some activities have had to be decreased and others have had to be increased. It must also be remembered, however, that Prime Minister Mahendra Chaudhry is a very knowledgeable former finance Minister. He is a person who has an extensive background in finance and who is very good at balancing budgets while providing funds for a broad range of programs.

This group of bandits in Fiji, who have been disfranchised by the vote of the people, have had their position disestablished. There are many Fijians in the Parliament—in Cabinet and in the parties. Many of the 71 majority members are indigenous Fijian. They have aligned themselves with Mr Mahendra Chaudhry. They have made a political statement: he is the best person to lead Fiji into the future. What is the response of these elements in the defence forces? Incidentally, Australia should immediately break some of its defence links if it has trained any of the characters who have burst into the Parliament with submachine guns. We have to ensure that under no circumstances can this gang of bandits be allowed to threaten the democratic society and the Parliament of Fiji.

It was fantastic to hear honourable members from all parties express these sorts of views this afternoon. The restoration of democracy in Fiji is an important part of the overall democratic health of the nations in the region. We cannot allow a situation to continue whereby at every point some failed group or a group that believes it is a bit disadvantaged can waltz into Parliament and point guns at everyone, and attempt to change the nature of the democratically elected government. The Fijian Government won overwhelmingly at the last election. The Soqosoqo ni Vakavulewa ni Taukei [SVT] party was absolutely demolished in that election. Its support base fell away because it was not delivering the goods to people of all races in Fiji, who determined that that party should be thrown out. Anyone who thinks that Mahendra Chaudhry was not capable of exercising a broad range of views, a consensus in many ways, has only to look at the composition of his Cabinet to know that he was concerned about these issues. In is an act of reconciliation in itself that the majority of the members of his Cabinet are ethnic Fijians.

I thank all honourable members for their contributions to this discussion. I have been religiously listening to the radio during the past few days to try to get word of what is going on. I am apprehensive to some extent about the Council of Chiefs because I believe that they can be pushed and pulled in ways that most secret

societies can be pushed around, particularly ones established by British colonial rule. The outcome of the deliberations is certainly not very clear cut. As a consequence, I am worried about the deals that can be done. I take the view that Speight has guns at the head of the Prime Minister and the Cabinet and any arrangements entered into between the Council of Chiefs and any other negotiator—for example, the United Nations—and this criminal will mean nothing the moment the confrontation has ended.

Reverend the Hon. F. J. Nile: And forced resignations.

The Hon. I. M. MACDONALD: Forced resignations will also mean nothing. To conclude, I take the view expressed in today's *Australian Financial Review*, which states:

> He [Rabuka] anticipated that while Mr Speight was using the Parliament as his prison at present "there is every likelihood that the constitution says George Speight will see the inside of a real prison. I expect him to be arrested for treason."

[*Time expired.*]

Discussion concluded.

DISTINGUISHED VISITORS

The DEPUTY-PRESIDENT (The Hon. Helen Sham-Ho): I acknowledge the presence in the gallery of a Beijing delegation headed by Mr Shen Rendao, who is a member of the National Committee of the Chinese People's Political Consultative Conference, and the Chairman of the Beijing Chinese Overseas Friendship Association.

NEW SOUTH WALES LOTTERIES CORPORATISATION AMENDMENT BILL

Bill received and read a first time.

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

> That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

[*The Deputy-President (The Hon. Helen Sham-Ho) left the chair at 12.55 p.m. The House resumed at 2.30 p.m.*]

FIRST HOME OWNER GRANT BILL

Second Reading

The Hon. J. J. DELLA BOSCA (Special Minister of State, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [2.30 p.m.]: I move:

> That this bill be now read a second time.

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

Leave granted.

> The First Home Owner Grant bill establishes a scheme to assist persons buying or building their first home by providing them with a grant of $7,000. The scheme is intended to encourage and assist home ownership and to offset the effect of the goods and services tax [GST] on the acquisition of a first home. Under the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations, the States and Territories agreed to implement a First Home Owner Grant Scheme, fully funded and administered by the States and Territories. The Government is committed to honouring this agreement. In the first year of operation, the New South Wales Government will pay an estimated $230 million in grant assistance to more than 30,000 first home owners.
>
> Although each State and Territory will implement separate legislation, the bill has been drafted in consultation with the States and Territories to ensure that eligibility for the grant is consistent with the principles outlined in the Intergovernmental Agreement and is uniform across Australia. In New South Wales, the scheme will be administered by the Office of State Revenue. As a consequence, the administrative provisions of the bill are generally consistent with the provisions of the Taxation Administration Act. To improve service to applicants, the Office of State Revenue also proposes to enter into agreements with financial institutions to assist in the administration of the scheme.

The grant scheme is in addition to the First Home Purchase Scheme, which provides stamp duty relief to low-income earners. However, unlike the First Home Purchase Scheme, the grant scheme is not means tested nor is there a limit on the value of the eligible home. The scheme will provide a once-only grant of $7,000 to eligible persons buying or constructing their first home in New South Wales. First home owners will be eligible to apply for the grant if the contract to purchase or build has been entered into on or after 1 July 2000 or, in the case of owner builders, if construction commences on or after 1 July 2000.

I now turn to some of the detail in the bill. Under the eligibility criteria, applicants for the grant must be natural persons not companies or trusts. An applicant, or at least one of them in the case of joint applicants, must be an Australian citizen or permanent resident of Australia. An applicant or applicant's spouse, which includes de facto and same sex partners, must not have previously received a grant under the scheme or held a relevant interest in a residential premises unless that interest was in an investment-only premises purchased on or after I July 2000. A relevant interest is defined as an interest in the land on which the dwelling is situated.

The bill recognises, however, that there will be instances where, for a range of reasons, applicants do not gain title to the land but fully fund the construction of their first home. In these cases, the Chief Commissioner of State Revenue will have a discretion to provide the grant. At least one of the applicants for the grant must occupy the premises as a principal place of residence within 12 months of the grant eligibility date. The bill also provides for shared equity arrangements and moveable homes situated on, or to be moved to, the owner's land.

The bill provides that the grant is payable in full on completion of the eligible transaction but provides the Chief Commissioner of State Revenue with a discretion to pay the grant in advance of that date. In practice, the grant will be paid in time for it to be part of the final settlement or, in the case of homes being built, at an appropriate time during the building process. Payments will be made electronically to an account nominated by the applicant or by cheque or, if the applicant requests, the Chief Commissioner of State Revenue may offset the grant against outstanding State taxes.

The bill provides for an objection process and further review through the Administrative Decisions Tribunal. The bill also proposes amendments to the Stamp Duties Act 1920 to provide an exemption from Financial Institutions Duty where the grant is credited directly to the applicant's nominated account and where a financial institution directly credits the applicant with the amount of the grant. The bill was widely circulated to peak industry and professional groups during the consultation phase. I table a summary of the bill for the assistance of honourable members. I commend this bill to the House.

The Hon. J. F. RYAN [2.31 p.m.]: I speak on behalf of the Opposition on the First Home Owner Grant Bill. This bill is largely the outcome of agreements between the States and the Commonwealth with regard to the implementation of the Commonwealth Government's tax reforms. As of 1 July all new homes will become subject to the GST. The Commonwealth Government thought it was important to ensure that new home buyers, people buying their very first home, were appropriately compensated for the payment of GST. After that, of course, they would own the home, and the value of their asset would appreciate accordingly. So that was not going to be a problem, but it is a particular problem for first home owners.

In the first year of operation the New South Wales Government will, as a result of this bill, pay an estimated $230 million in grant assistance to more than 30,000 first home owners. However, the funds that are required to implement this measure will be supplied by the Commonwealth because, in the early years of the implementation of the GST, the States will abolish a number of taxes and will have to implement this measure, and as a result they would have a revenue shortfall. However, arrangements made between the States and the Commonwealth have provided that the Commonwealth will guarantee that no State will lose revenue as a result of the implementation of the GST.

I noted from the speeches given in the other House that some half dozen members of the Labor Party took the opportunity to bucket the Commonwealth Government for the implementation of the GST, prior to the Government in the other place guillotining the bill through. I thought it appropriate to at least put on record some comments with regard to tax reform, because the tax reform package is in the best interests of this country, and there is no point people on the other side simply criticising the tax reform package for base and short-term political reasons, particularly as the tax reform package is likely to advantage the revenues of New South Wales in the long term.

Bob Carr was in fact one of the first Premiers to sign the GST agreement of the Goods and Services Tax Ministerial Council made between the Commonwealth and the States because he knew that in the short term New South Wales would lose nothing as a result of the implementation of the tax reform and that in the long term State revenue ultimately would benefit. In the short term, as I have said, the Commonwealth has given a guarantee to all of the States that State revenues will be no worse off during the transition period. The transition period at the moment has been calculated to be the time it will take for the revenues of the GST to increase to a level at which they are equal to the financial assistance grants that the States will not get as a result of the annual Premiers Conference and are equal to the taxes that the States are required to abolish as part of the GST agreement.

The arrangements include removing State and Territory reliance on financial assistance grants and revenue replacement payments from the Commonwealth, and providing that all GST revenue going to the State

and Territories be spent according to be the budgetary priorities of those States and Territories. The tax reform will mean for New South Wales a greater level of financial independence than this State has enjoyed prior to this time. The State-owned Territories will have a direct role in determining the GST base because, if they wish, they are capable of deciding the rate of the GST provided they all act in unison. Finally, a timetable has been set down for the abolition of a range of inefficient State taxes as a result of what the Commonwealth is doing in this tax reform.

The new arrangements will provide States and Territories with access to a more robust tax base, which will grow over time to ensure that State and Territory budgets are substantially better off in the medium term. In effect, that means that the State revenues of New South Wales will start growing as a result of the GST, it is estimated, from the year 2006, and that in the year 2007-08 the benefits of the GST will amount to $100 million, or some amount even greater than that. It might seem a long time to wait for the benefits, but the truth is that the Commonwealth has guaranteed that the State of New South Wales will incur no net loss. So why would not New South Wales sign up for something which in the long term gives us benefit and in the short term gives us no loss? I see no reason for honourable members opposite to complain about tax reform. It might be difficult to explain, and it might result in some level of electoral unpopularity for some time, but in the long run tax reform is in the interests of the people of Australia and even in the interests of the revenue of New South Wales.

The benefits of tax reform that the Commonwealth Government will introduce, from 1 July, include $12 billion in personal income tax cuts. That means that people on average incomes will not be paying the high rates of marginal tax that they have been paying. I believe it to be offensive that someone earning a modest level of income should pay a marginal rate of tax of the order of 45¢. The tax reform package will abolish that rate of tax for the many middle-income earners. An amount of $2.5 billion has been provided for family assistance, targeting people at the most vulnerable times of their lives. There is an opportunity, through the growth in revenues from the tax reform package for families to benefit.

Additionally, another $2.5 million has been provided for increases in pensions and government payments to people who rely on such payments, which more than compensates for the dollars taken through the goods and services tax [GST] for those basic items that people need to buy. So pensioners and those in receipt of government payments will be better off as a result. As I said earlier, this legislation will secure a funding base and enable the Government to protect the social infrastructure in our State. The Commonwealth Government has also provided a one-off bonus to protect the personal savings of aged and self-funded retirees.

This is a complex and difficult package to assess. I accept that, in some respects, it is difficult to market, but I and the Opposition believe that, in the long run, tax reforms will make our nation more efficient and enable us to compete better with overseas traders. Tax reform provides a level playing field but we must tilt it in our direction so as to ensure that the products we sell overseas are not subject to things like wholesale sales tax. It will enable us to be more competitive and thus increase jobs, which will benefit those in the community who are disadvantaged. The Hanrahans, to whom the Special Minister of State referred, have been inclined to attack this package, but overall it is in the best interests of the nation.

I imagine that the Treasurer is proud also of his other benefit for first home buyers—the stamp duty concession for various home purchasers provided in yesterday's State budget. Whilst they are of benefit it should be said that they are long overdue. Some relief should be given to first home purchasers, given the fact that for years State Treasury has been milking home buyers through heavy stamp duty receipts. This year stamp duty receipts amounted to $764 million over the budgeted amount for last financial year. Treasury received nearly half the income it requires to run a department such as the Police Service or Community Services through unbudgeted and unplanned tax receipts.

Frankly, it comes as no surprise that the Government is giving some money back to first home buyers to assist them to enter into the home purchase market. The Opposition commends the Government on that aspect of last night's budget, but it is seen as a fairly modest return of funds which have been taken from the community for some time. I commend this bill to the House. I am sure that the other matters to which honourable members would like to refer will be dealt with in debate on the budget.

The Hon. I. COHEN [2.43 p.m.]: I have some concerns about the First Home Owner Grant Bill. This payment to first home owners, irrespective of their current income or assets, is designed to compensate for the impact of the goods and services tax [GST] on home purchasers. It is part of the Commonwealth-State financial arrangements agreed to in 1999. The Greens are concerned about the fact that this will apply to first home owners, irrespective of their current income or assets. It would have been appropriate and far more equitable if

the Government had implemented means testing for those applying for a first home owner grant. No doubt this scheme is a vote winner for the Government, but it does nothing to address the housing needs of a growing number of people on low incomes who are unable to afford homes of their own.

The Council of Social Service of New South Wales estimates that, due to the explosion in housing prices in Sydney, up to 45 per cent of people in the lowest income range are unable to participate in the housing market. Irrespective of this scheme, home ownership is an impossibility for this significant proportion of the community. These people are reliant on the private rental market or public housing. The crisis in housing affordability is well documented. More than one-fifth of all low income households in New South Wales pay more than the standard 30 per cent of their gross household incomes in housing payments. That represents a quarter of a million households. For those households there is a constant weekly struggle to pay the rent. That struggle will become even more difficult due to the GST, which will result in rent increases.

Without secure housing people are vulnerable. Their capacity to work, maintain their health and be active participants in life is intrinsically linked to the extent to which they have secure and affordable housing. But rather than doing anything to assist the most needy, this Government is giving away a $7,000 gift to anyone purchasing a first home. Even the wealthiest people who can afford to buy expensive north shore and eastern suburbs properties will get $7,000. For wealthy home buyers this amount is a relatively insignificant sum—no more than a few weeks mortgage payments. With above inflation wage increases, higher capital gains, larger personal income tax cuts and the continued availability of negative gearing, this section of the community is largely cushioned from the effects of the GST, yet it is this section of the community that the Government is compensating.

The $21 million to be spent each year in New South Wales on these grants could have had a real impact. It could have been directed to reducing the waiting lists for 97,000 public housing applicants. It could have been spent on housing homeless people, including many people with disabilities, who have been evicted from boarding houses. The Government claims that it was unable to impose a means test because the Commonwealth Government required the uniform implementation of the scheme across Australia, but the GST will produce windfall revenue for the New South Wales Treasury when stamp duty is applied to home purchase transactions after the addition of the GST.

I call on the Treasurer to at least give this House an undertaking that this revenue will be directed to compensating low income earners dependant upon private rental accommodation for the effects of the GST. I and Ms Lee Rhiannon recently attended a rally in Bondi. Tenants in areas around Bondi have been evicted because of increases in rents by unscrupulous landlords in the lead-up to the Olympics—a difficult position for those people to be in. There is something about the security of being able to live in one's own home. A home, whether it is rented or owned, is important to the wellbeing of individuals in our society.

This first home owner grant scheme will not spread the largesse of government in those areas where it is desperately needed. With rent hikes and increases in rents in the lead-up to the Olympics and the added pressure of the GST there is a real air of desperation among many people on low incomes struggling to maintain shelter for themselves, their families and their children. It would have been more appropriate if the Government had taken into account those who are suffering rather than implementing a scheme which is seen to be a token vote winner.

The Hon. HELEN SHAM-HO [2.47 p.m.]: I support the First Home Owner Grant Bill. The object of this bill is to encourage and assist home ownership and to offset the goods and services tax on the acquisition of a first home. The core principles were agreed to by the Commonwealth, States and Territories in the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations in June 1999. This bill is commendable as it recognises the added burden of the GST on first home buyers and first home builders and its object is to compensate them for this new burden. They will be paid a maximum of $7,000 when they satisfy certain criteria and other requirements.

This bill is particularly significant because, for nearly all first home buyers, the acquisition of a new house is the most expensive household outlay. With the introduction of the GST after 1 July the additional 10 per cent tax will result in a rise in the costs of almost all goods and services and it will make it much more expensive for people to acquire a new home. Ownership of a new home will become a more difficult dream for many people to achieve unless they are given assistance. It is, therefore, a good initiative to provide some financial help for first home buyers. There is no doubt that somehow, at least initially, the GST will deter spending.

The additional costs imposed by the GST will soon discourage many people, in particular young people, from acquiring their first home, as the GST directly imposes extra costs on those wanting to buy or build a new home. The GST will represent a big price rise compared to pre-GST days. Therefore, it is fair to compensate first home owners and/or builders and to remove the deterrent nature of the GST.

The bill will provide much-needed assistance to people wanting to achieve the great Australian dream of owning their own home. Take my daughter and son-in-law as an example. The passage of this bill will help them to realise their dream more easily if they are granted a tax-free payment of $7,000. It will be a windfall for them, as it will be for many other young couples like them. As the grant scheme provides assistance to buyers of both new and second-hand homes it will help all first home buyers.

Furthermore, the fact that no stamp duty is required to be paid on the grant will further reduce costs. This exemption will make a difference to many people. I also want to comment briefly on the additional measures announced in yesterday's State Budget that provide an exemption from stamp duty to first home buyers if the purchase price of the house is less than $300,000. The first home buyer will save up to $6,000 in stamp duty. This is a commendable initiative by the Treasurer and, in conjunction with this bill, will further lighten the financial load of buying one's first home.

Additionally, regardless of their income and the value of the homes, all first home buyers and builders are eligible to receive the grant. That is, applicants are not means tested. This provision recognises that all first home buyers are burdened by the GST, and not just one particular group of buyers. As grants are not restricted to people below a certain income and/or to those buying or building homes below a certain value, the bill promotes home ownership to all people. A certain flexibility is built into this scheme, as the grant can be used for either the settlement of the contract or the payment on completion of the building works. Payment of the grant can be made in advance in certain circumstances as well. This flexibility will assist all applicants for the grant in the planning of their finances for the construction or purchase of their homes. In this way they will be able to manage their expenditure more effectively.

However, I have doubts and reservations about the amendments foreshadowed by One Nation. I understand that the Hon. D. E. Oldfield seeks to amend the bill so that the grant will apply only to Australian citizens or to those who take out Australian citizenship within 12 months of being eligible to do so. It would be an administrative nightmare to police the people who fall within this latter category, and I cannot envisage how such a provision could be policed. I would like the Hon. D. E. Oldfield to be aware that, according to the report "Australian Citizenship for a New Century" prepared by the Australian Citizenship Council and released in February this year, 95 per cent of the Australian population are Australian citizens. Seventy-five per cent of the eligible overseas-born population have Australian citizenship. Rates of citizenship vary considerably based on country of birth.

The report states that at June 1998 there were 940,000 eligible non-citizens in Australia, of which more than half were from the United Kingdom and New Zealand. People from countries such as Greece, the former Yugoslav Republic of Macedonia, Laos, Lebanon, Hungary and Vietnam have citizenship rates of over 90 per cent. New Zealanders and Japanese record some of the lowest rates of citizenship, with about 30 per cent taking out Australian citizenship. With the current Federal Government's tough stance on migration, it is increasingly difficult to obtain permanent residency. I note that a Federal committee is conducting an inquiry into migration in the Jubilee Room of Parliament House. I disagree with the Hon. D. E. Oldfield's contention that the first home owner grant could be obtained by people who are visitors to Australia. The fact that they have become permanent residents is usually as a result of having remained in Australia for a period of time and having the intention to stay. A permanent resident has to stay a minimum of two years before being granted citizenship.

The Hon. D. E. Oldfield's amendment will victimise permanent residents who are buying a home and, in my view, it is mean-spirited. Furthermore, I believe that allowing permanent residents to obtain the grant will encourage them to remain in Australia and make a worthwhile contribution to our society. In conclusion, the bill will alleviate the burden of the GST and will particularly assist young people to achieve the great Australian dream. I commend the bill to the House.

Reverend the Hon. F. J. NILE [2.54 p.m.]: The Christian Democratic Party supports the objectives of the First Home Owner Grant Bill. The bill will set up the first home owner grant scheme in New South Wales under the general administration of the Chief Commissioner of State Revenue. The scheme is designed to encourage and assist home ownership, and to offset the effects of the goods and services tax [GST] on first home buyers. The core principles are as agreed to by the Commonwealth, States and Territories in the

intergovernmental agreement on the reform of Commonwealth-State financial relations in June 1999. The bill provides for a maximum payment of $7,000 to first home owners on and after 1 July 2000 if they satisfy certain criteria and other requirements set out in the bill.

Honourable members are aware of the debate and the controversy over the goods and services tax. We are more aware of it at the moment because of the very extensive advertising campaign under the authority of the Federal Government to attempt to explain the goods and services tax, using the very dramatic imagery of chains falling off people, whether they are working in a factory or a shop, or buying things.

The Hon. J. R. Johnson: It will go back on 1 July.

Reverend the Hon. F. J. NILE: But they will be very happy with the removal of the indirect taxes. Some of those indirect taxes were sneaked through by the Keating Government to increase its budget revenue without the Australian public being told. It was its way of having a hidden, secret tax. Taxes should always be up front. We also support the legislation because it will assist young married couples who may be starting a family and who want to have their first home. As honourable members know, including the Hon. J. R. Johnson, this is to offset that 10 per cent GST, and it has been calculated that the $7,000 would be adequate. When one adds up the 10 per cent GST on the cost of the services involved in building a house—carpenters, plumbers, roof tilers, bricklayers, carpet layers, glaziers, plasterers and electricians, et cetera—and on the house itself and all the bricks, mortar, timber, flooring, carpets that the workers will be using to build it, there is some debate whether the $7,000 will cover it. I hope it will.

I am sure that if it could be demonstrated that a gap remained, our caring Federal Treasurer would provide some relief. For example, in the past few days the Federal Treasurer announced certain concessions when it became clear that, because of the GST, companies were installing extra equipment, computers and so on. Those companies were put in an exempt category. So, there is still some flexibility in the overall GST.

Page 6 of the bill contains an explanation of those who are eligible to apply for the grant. I used the example of the young married couple, which to me should always be the priority of the Government. It should ensure that those people are assisted to set up their first home and that they have more than adequate accommodation for their families. Obviously, if one has a home it is certainly an incentive to have children and for the family to expand naturally. In my view the whole direction of the bill is aimed at young married couples. However, on reading the bill I was surprised to find once again that the Government is still deceiving the House. Persons who are eligible to apply for this grant are described in clause 6 as "spouses". People normally have only one spouse—unless they are a member of a Muslim community. Clause 6 states:

> **6 Spouses**
>
> (1) A person is the spouse of another person if:
>
> (a) they are legally married, or
>
> (b) they are living together as a couple in a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

To me, "legally married" is the normal historic meaning of the word "spouse". However, one could argue that it is now accepted that some people, for whatever reason, decide not to go through a marriage ceremony or have their marriage registered by the Registry of Births, Deaths and Marriages but live together as common law wife and husband. The clause further states:

> (2) If the Chief Commissioner is satisfied that, at the time of deciding an application for a first home owner grant, an applicant:
>
> (a) is legally married but not cohabiting with the person to whom the applicant is legally married, and
>
> (b) has no intention of resuming cohabitation,
>
> the person to whom the applicant is legally married is not to be regarded as the applicant's spouse.

That covers a couple who are not divorced but are not cohabitating or living together. That would affect the criteria of the applicant. I am concerned that the Government has taken the same approach to same-sex spouses in this bill as it took in the Anti-Discrimination (Carers' Responsibilities) Bill. The Minister, Mr Aquilina, said in his second reading speech in the other place:

> An applicant or applicant's spouse, which includes de facto and same sex partners, must not have previously received a grant under the scheme or held a relevant interest in a residential premises unless that interest was in an investment-only premises purchased on or after 1 July 2000.

In relation to this bill it is clear that the Government was aware that once again it was using a deceptive definition of "spouse", which honourable members know historically means a bride or bridegroom. Last year during debate on the Property (Relationships) Legislation Amendment Bill I challenged expansion of the definition of "spouse" to include same-sex partners. Obviously same-sex partners cannot be married, cannot be a bride and cannot be a bridegroom because same-sex marriages are not legally recognised in any State or Territory of Australia, or at the Federal level, although the power to enact matrimonial law is vested in the Federal Constitution.

It is disappointing—and I assume the Attorney General must be a party to this—that the Government continues to include the expanded definition of "spouse" in legislation. It looks as if the expanded definition will be slipped into all new bills that are introduced to give greater recognition and credibility to it. Surely that is preparing the soil for a future debate on whether same-sex partners should be legally recognised as a married couple. I believe we are being led into an illogical argument on that question, and honourable members who may totally oppose that concept at present may in five years' time argue that we have gone so far, that all legislation acknowledges same-sex spouses, and therefore that we should take the next step and legalise same-sex marriages.

Although same-sex marriages are not legal, I believe that if one State, for example New South Wales, makes them legal that would put pressure on the Federal Government, whether it be Labor or Coalition. At this stage I think a Federal Labor Government would probably move fairly quickly to change the law on the basis of what is being done in New South Wales, and that is a serious concern. A moment ago I asked the Minister's advisers whether the Federal Government was aware that some of the moneys may be given to same-sex couples, because the grants will be made under an intergovernmental agreement on the reform of Commonwealth-State financial relationships. This legislation is based on that agreement. That may be a bit simplistic, but I think that as the Federal Government is providing the moneys—the Commonwealth is providing the money, not the New South Wales Government—it would assume that grants will not be made to same-sex couples. Does the Federal Government know that its moneys will be given to same-sex couples or so-called same-sex spouses?

I know that the Prime Minister and the Federal Government totally oppose legalising same-sex marriages when it is raised in the Senate or the House of Representatives. That matter is being raised regularly now by Senator Brown from Tasmania and Senator Greig from Western Australia, who openly profess to be homosexuals. At every opportunity they push the line to amend all bills that enter the Federal arena, whether it is superannuation or other legislation. According to my information, until now the Federal Government has been able to resist the pressure and has not amended the law to give legal recognition to same-sex partners in the way that New South Wales is now doing.

I am checking with the Federal Treasurer's office to see whether the Federal Government has been advised by the New South Wales Government that the grants will be used more widely than I believe was intended by the Federal Government. The Federal Government is family centred and is very conscious of the economic pressures on a young married couple, and it wants to assist them to buy their own home. I am sure it never intended to help two homosexual men from Kings Cross or Oxford Street to buy a home. I am sure the Treasurer, Peter Costello, and the Prime Minister, John Howard, never intended that.

If the Federal Government has not been advised, I believe that that is breaking the spirit of the agreement between the New South Wales Government and the Federal Government. If that was the intention of the New South Wales Government, a submission should have been made to the Federal authorities—I would assume to the Federal Treasurer—in terms of the agreement. Was that done? Did the Federal Treasurer agree to the New South Wales Government's proposal? Or is this another example of the ambush we experienced when the matter was first raised during debate on the Property (Relationships) Legislation Amendment Bill last year? We agree 100 per cent that first home owners should receive this assistance. There is no question about that. Hopefully, $7,000 will be sufficient to offset the increased cost of the goods and services tax. However, we are opposed to two homosexual men from Oxford Street getting $7,000.

Ms LEE RHIANNON [3.08 p.m.]: I am pleased to endorse the comments of my colleague the Hon. I. Cohen on this bill. The Greens understand that the 1999 Commonwealth-State fiscal agreement requires the implementation of uniform legislation by each State and Territory government. However, the Greens consider

the bill to be poor and discriminatory policy which will advantage high-income and middle-income earners. Currently there is a housing crisis in New South Wales. That is serious and worrying, because an incredible number of people are on the streets every night. Some 97,000 applicants are awaiting public housing. They are on the lists and they are desperate for a good home.

Inner Sydney public housing stock is being sold to pay for maintenance costs, and public housing rents are on the increase. Declining government funding is leaving more and more low-income earners without adequate housing options. This situation is being exacerbated in the Sydney area by the Olympics, despite the Government's denials that the rental property market is being affected. The Rental Tenants Union and other like organisations have documented many instances of tenants being evicted from cheaprental boarding homes in the lead-up to the Sydney Olympics to make way for people who can afford the high rents that many landlords are now expecting and charging.

The bottom 25 per cent of income earners generally cannot afford home ownership at the present time, particularly in the Sydney area. This bill will give away $21 million that would be far better spent on extra public and community housing, or on directly supporting low-income earners in the private rental market. Instead, this $21 million will go into the pockets of those who can already afford to enter the property market. This imbalance in favour of high- and middle-income earners is in part created because the bill does not subject the grant to a means test. If available funds were targeted towards assisting those on the margins of the property market to purchase property, the bill would have some merit. It is instead a free-for-all in which even the very wealthiest home buyers will pocket $7,000 when they buy their first home. Meanwhile, hundreds of thousands of people wait for public housing, and every night across Greater Sydney 30,000 people are homeless.

In our view, it is a mistake to argue, as the Government has argued on this issue, that a flat $7,000 grant is of more benefit to a low-income home purchaser than it is to a high-income purchaser. This argument would hold water if the property market were a level playing field. However, as we know, that is a totally discredited term and has no meaning in the real world. The reality is that 25 per cent of the New South Wales population are out of the picture as far as this bill is concerned: grant or no grant, home ownership is simply beyond their financial means.

As I said earlier, the Greens recognise that this bill is one component of a nationally agreed scheme and that goods and services tax compensation is a matter for the Commonwealth Government. However, we believe that the bill is such poor policy that it cannot be supported. The Greens urge the Government to address the issues we have raised and take them up with the Commonwealth Government. The issue of homelessness needs to be addressed urgently.

The Hon. Dr P. WONG [3.12 p.m.]: I support the First Home Owner Grant Bill, which establishes a scheme to assist first home owners with an exemption of stamp duty and a further $7,000 grant under a Federal and State government agreement. It aims to assist people, especially young people and low-income earners, to purchase a home. I am pleased that the bill will apply to Australian citizens as well as to Australian permanent residents, as it should. This is in conformity with the principles contained in the Citizenship Act, which provide that a permanent resident should enjoy every right, except for certain rights and obligations such as voting and serving on a jury.

I note, however, that the bill gives the Chief Commissioner of State Revenue very broad powers in the exercise of his or her functions. The bill gives the chief commissioner many discretionary powers in relation to varying or reversing a decision if it is incorrect, revoking an administration agreement, entering premises to obtain documents or records that are relevant to the administration of the Act, accessing public records without fee, and possessing those documents and records. In addition, clause 27 provides the chief commissioner with excessive power of non-action. Clause 27 provides:

> For the purpose of Subdivision 2, if an objection has not been determined within 90 days of being lodged, the Chief Commissioner is taken to have made a determination to disallow the objection and to confirm the original decision.

Without setting out clearly the conditions under which this power could be exercised, the chief commissioner could virtually choose not to act. Such a provision would also create uncertainty for the applicants, who would be unsure about whether the chief commissioner would act on their applications. It must be borne in mind that in the case of non-action by the chief commissioner, applicants are deprived of the right to state their objection to the decision for a second time, as provided in clause 25. I believe it is necessary to set clear limitations on the exercise of this power. This will help reduce the risk of the power being abused in the practical process.

It is also the obligation of the chief commissioner to commit himself or herself to action within the period specified in the legislation. This balance of rights and obligations is very important to ensure the equity of the legislation, as well as procedural fairness, which is so highly regarded in our judicial system. It also contributes to ensuring the predictability and stability of the implementation process. With a more sensible balance of rights and obligations, I expect that this legislation would proceed smoothly in achieving its goals.

The Hon. Dr A. CHESTERFIELD-EVANS [3.15 p.m.]: The purpose of the First Home Owner Grant Bill is to establish the first home owner grant scheme for New South Wales, under the general administration of the Chief Commissioner of State Revenue. The scheme is designed to assist home ownership and to offset the cost effect of the GST on first home buyers. The bill provides for a maximum payment of $7,000 to first home owners on and after 1 July 2000, if they satisfy certain criteria and additional requirements set out in the bill.

In 1988 Paul Keating, the then Labor Treasurer, extended the sales tax net to include bathroom fittings, arguing that it would address anomalies as some household fittings were already taxed. The Australian Democrats opposed the tax, but it was passed in the Senate with support from the Opposition. Once again this demonstrated that the Federal Australian Labor Party has a short memory and is somewhat hypocritical with regard to housing costs.

In 1995 the Australian Labor Party extended the net to include all building materials other than basic materials such as concrete and timber. It is worth looking at the history of taxation on building products. In 1981 Treasurer John Howard tried to impose a 2.5 per cent sales tax on building materials. The Democrats and the shadow Treasurer, Ralph Willis, opposed the tax, which was defeated in the Senate. In 1983 sales tax bills were used as a double dissolution trigger, which resulted in the Liberal Government being defeated. In 1988 Treasurer Paul Keating extended the sales tax net to include bathroom fittings, arguing that it addressed a sales tax anomaly in that some household fittings were already taxed. The Democrats expressed concern, but again it passed with Opposition support in the Senate. In 1995 Treasurer Ralph Willis extended the sales tax to include all building hardware other than basic materials such as concrete and timber. The tax was also extended to include other hardware, including nails, paint and tiles.

The new tax created a whole range of new anomalies. For example, kitchen cupboards built off site were taxed, but those constructed using less efficient on-site means were exempt. At that time the comment was made that the new tax arrangement created as many new tax anomalies as it addressed, and it left open the possibility that some future government would close the anomalies by extending the sales tax net to include all building materials. In fact, that is what the GST has done. On 16 June 1995 Cheryl Kernot issued a press release stating that the Australian Democrats would vote against the sales tax increase on building materials. Of course, these days we do not hear much from Cheryl Kernot. She is now a member of a major party and is totally muzzled; she is not allowed to say anything. She is only allowed to put her hand up on command if she gets permission in triplicate. Cheryl Kernot probably would have opposed the tax, but she cannot do that now.

The scheme is the result of the intergovernmental agreement on reform of Commonwealth-State financial relations which was implemented in June 1999. It will provide significant benefits to first home buyers. For that reason and because the legislation will provide compensation for increased costs, the Australian Democrats support it.

The Hon. J. J. DELLA BOSCA (Special Minister of State, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [3.20 p.m.], in reply: I will respond only briefly to some of the comments made by the Hon. I. Cohen in relation to the equitable effect of the scheme. During the debate other matters were raised which, frankly, stand or fall on their merits depending on how the pros and cons of the bill are interpreted. I will leave it to honourable members to make their independent judgement on the matters raised by Reverend the Hon. F. J. Nile.

To a degree the scheme is self means testing because all applicants receive a flat $7,000 benefit, but those who already have a home receive proportionately less. Owners of homes that have a lower value receive stamp duty relief. Most buyers of expensive homes who have higher incomes would not be purchasing a home for the first time. It is the Government's view that instead of introducing an extensive array of compliance procedures that would apply to a relatively small part of the community, it is better—that is, cheaper, more efficient, more effective, and almost as equitable as the modifications suggested by the Hon. I. Cohen and to some extent tacitly endorsed by other honourable members—to implement the scheme as proposed in the bill. They are the only matters that the Government wanted to canvass in reply. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Part 1 agreed to.

Part 2

The Hon. D. E. OLDFIELD [3.23 p.m.], by leave: I move my amendments Nos 1, 2 and 3 in globo:

No. 1 Page 7, clause 7, line 13. Omit "section 9 (2) or 12 (2) or both". Insert instead "section 12 (2)".

No. 2 Page 7, clause 9, lines 22-28. Omit all words on those lines. Insert instead:

8 Criterion 2 - Applicant to be Australian citizen

(1) Subject to subsection (2), an applicant for a first home owner grant must be an Australian citizen.

(2) An applicant is ineligible for a first home owner grant unless he or she:

(a) was an Australian citizen on the commencement date of the relevant eligible transaction, or

(b) was a permanent resident on the commencement date of the relevant eligible transaction and afterwards became an Australian citizen within 12 months after first becoming eligible to do so.

No. 3 Page 11, clause 14. Insert after line 21:

(6) If an applicant (or one or more of joint applicants):

(a) is a person referred to in section 8 (2) (b), and

(b) became an Australian citizen after the completion of the eligible transaction and within 12 months after first becoming eligible to do so,

the application period is extended by a period ending 12 months after the applicant (or each of one or more joint applicants) became an Australian citizen.

The intention of the amendments is to remove eligibility for a first home owner grant from permanent residents who do not choose to become Australian citizens and who will possibly leave Australia after never having been more than a visitor. The effect of my amendments will be to change the bill so that permanent residents will be able to access the first home owners grant only if they become Australian citizens within 12 months of becoming eligible to apply. At that time, the grant will be payable to them in the form of a reimbursement for the outlay they have made on their first home while they were persons with permanent resident status.

The principle underlying the amendment is that Australian citizenship should carry with it certain privileges that are not available to those who ultimately may finish up being nothing more than visitors. The level of benefits to permanent residents is already at the point where one could argue there is no incentive to ever change from permanent resident status. While it is not intended to link the value of citizenship to a financial benefit, it is reasonable to expect that at least some government services are restricted to those who commit themselves through citizenship to this country.

There are only two matters of consequence to which a permanent resident is not entitled. The first is the eligibility to vote, and that is an interesting case in point. Australians have a tendency to consider voting to be a right. Some consider it a responsibility but, whatever one's views might be, it should be borne in mind that those of us who, supposedly by virtue of this wonderful and priceless gift of citizenship and eligibility, are forced by law to vote can be fined for not complying. From local government elections to State and Federal elections, Australian citizens are compelled to vote.

Some people argue that being forced to vote is an assault on free will, and it is certainly the case that many people do not consider it an advantage to be forced to vote. Other than for the compulsory requirement to vote, a large percentage of Australia's population would not bother to cast a vote. It is interesting to consider that people mostly regard voting as a way of having their say and of securing action on the issues they support, yet this legislation is an example of non-citizens enjoying the benefits without either the right or, if one prefers, the responsibility of voting.

The other point worth mentioning is that non-citizens are not allowed to serve in the armed forces. While those who choose the armed forces as their venue of service should feel proud of the job they do for our country, by and large people are not exactly breaking down doors or queuing for hours outside recruitment

centres to enlist. I have not yet heard voices in protest from the non-citizen sector of the population about how they are discriminated against by not being able to become part of the proud tradition of our country's armed forces. I have not heard the sorrowful cry, "Please let us join the army. Our only desire is to serve this land which has given us so much." I am sorry to say that I have not heard that cry. It is fair to say that defending this country is not at all a right but, indeed, is clearly a responsibility. In that sense, it seems particularly hypocritical to countenance the notion of a government giving money to people to purchase a home that they cannot be called upon to defend.

It is highly disturbing that when I approached Peter Debnam, the Opposition's spokesman on this issue, he said that it was not in the interests of the Opposition to support this amendment because I was putting it forward and the Opposition would not get any credit for it. I was always taught that there is no limit to what one can achieve if one is not concerned with who gets the credit. Unfortunately, it is clear that the main objective of the Opposition in this case is credit rather than a good outcome for the people it pretends to represent. However, in saying that I must acknowledge that some Opposition members were in favour of supporting this amendment. It is a sad state of affairs that their decency was overcome by their colleagues' lack of decency.

The only people who will be disadvantaged by this amendment are those who do not want to be Australians. The general public will probably not find out about this issue. However, if they did the vast majority would see the decision to give home grants to non-citizens as plain stupid. The majority of Australians would shake their heads in disbelief at decisions that continually soak up their taxes and reduce the value and prestige of their Australian citizenship. If one supports the platform that citizens of a country should expect some assistance not available to visitors of that country, one would support this amendment.

The Hon. Dr P. WONG [3.31 p.m.]: The amendment moved by One Nation is biased and detrimental to the goal of this legislation. It will exclude Australian permanent residents from benefiting from this scheme. In the one-page briefing note from the office of the Hon. D. E. Oldfield permanent residents are referred to as "visitor" or "visitors" on a couple of occasions. Permanent residents are not visitors, although they do travel overseas for various legitimate reasons. Like Australian citizens, they are also taxpayers in Australia and make a contribution to the Australian economy. If they commit themselves to purchase homes, they demonstrate their genuine intention to regard Australia as their home. I therefore see no reason why they should be excluded from the benefits of the scheme. Honourable members must be aware of and committed to the positive appreciation of the contribution made by permanent residents. We should also be mindful of past policies to limit or exclude certain groups from seeking their rights, and the repercussions so caused.

The Hon. D. E. Oldfield: What are their contributions? Name a couple!

The Hon. Dr P. WONG: They contribute to the economy, business, skills, investments and our profile overseas, definitely. It is still important today to redress the past shortcomings and to ensure broad and full participation from all people. Having said that, I will make three specific points on the amendment of the Hon. D. E. Oldfield. First, the amendment is based on a narrow interpretation of the citizenship concept. That exclusive view is already outdated and is no longer in pace with the progress of our democratic system and multiculturalism. Unity believes that as a multicultural nation we should work towards a broader and inclusive concept of citizenship to reflect the positive changes. I am sure that honourable members from both major political parties agree with what I am saying.

Second, the data quoted in the briefing note of the Hon. D. E. Oldfield is selective. The Australian Citizenship 1996 Census, Statistical Report No. 26, says that the number of people taking out citizenship is generally increasing as compared with 1991, whether by English proficiency and sex, by selected birth places or by selected languages spoken at home.

The Hon. D. E. Oldfield: You can't read the material! There is a two-year lag. Your researchers cannot read the material. You have got to read it for yourself.

The Hon. Dr P. WONG: This is the Australian Citizenship 1996 Census. I do not know where the Hon. D. E. Oldfield gets his statistics. He gets them from nowhere. The number of people taking out citizenship varies from year to year. However the number always mirrors the intake of migrants in previous years because it takes two years to qualify for citizenship. I hope the Hon. D. E. Oldfield knows that. For example, the Department of Immigration statistics for 1995-96 reveal that the number of settler arrivals was 99,100, but in previous financial years the intake was much lower, approximately 69,000 in 1993-94. Bear in mind that the Citizenship Act sets out a two-year residential requirement for permanent residents to become citizens. Therefore, it would be self-evident why the number of people taking out citizenship decreased in 1995-96.

The Hon. D. E. Oldfield may not know that historically people who often do not take out citizenship are from England and that people who are not of Anglo-Saxon origin take out citizenship more frequently than anyone else. The honourable member does not know that—he should study the facts before he makes his speeches. Certainly the report also observed that the rate of Australian citizenship among people from non-English speaking background countries is considerably higher than that of people from English-speaking countries. This observation is consistent with the information provided by the Australian Bureau of Statistics. I do not know whether the Hon. D. E. Oldfield knows what it means. I support the bill. I strongly object to the amendment moved by the Hon. D. E. Oldfield. It is shortsighted and biased; it should be ignored and condemned.

The Hon. HELEN SHAM-HO [3.36 p.m.]: I do not support the amendment moved by the Hon. D. E. Oldfield. When I addressed his amendment earlier he was not in the Chamber. Therefore, for his benefit I will briefly reiterate my points, which have already been outlined in part by the Hon. Dr P. Wong. A permanent resident is not a citizen; a permanent resident has to wait for two years before he or she is allowed to become a citizen. Many of those people make a commitment to be here, and their buying a first time will be a great enticement for them to be here. They should not be victimised. It is very mean-spirited, as I said, of the Hon. D. E. Oldfield to put forward this amendment. I am pleased that the Government, the Opposition and many crossbenchers do not support his amendment.

The Hon. C. J. S. Lynn: He is representing the view of the people who elected him, whether you agree or not. That is more than you can say!

The Hon. HELEN SHAM-HO: To answer the Hon. C. J. S. Lynn, the rats, as he would say, are in this House. Most of the permanent residents who do not want to take out citizenship of Australia are from the United Kingdom and New Zealand, and are certainly not from non-English speaking backgrounds.

The Hon. Dr B. P. V. PEZZUTTI [3.37 p.m.]: I join this debate because of the ignorance—I hope it is ignorance—or the posturing, posing and fraudulence of the Hon. Helen Sham-Ho. The amendment clearly states in part:

> An applicant is ineligible for a first home owner grant unless he or she:
>
> (b) was a permanent resident on the commencement date of the relevant eligible transaction and afterwards became an Australian citizen within 12 months after first becoming eligible to do so.

It is an awful shame that the education that the Hon. Helen Sham-Ho received in this country, especially as a lawyer, was not used—

The Hon. Helen Sham-Ho: Point of order: My point of order is relevance. The honourable member should be talking about the legislation instead of attacking me, as he does again and again.

The Hon. Dr B. P. V. PEZZUTTI: There is no point of order. I was specifically speaking to the legislation.

The Hon. J. H. Jobling: Mr Chairman, I contend that my colleague is correct and that there is no point of order. The Hon. Helen Sham-Ho should make a personal explanation rather than take a point of order.

The Hon. Dr B. P. V. PEZZUTTI: She's just abusing the House.

The CHAIRMAN: Order! There is no point of order. The Hon. Helen Sham-Ho is not abusing the House. To enable Hansard and me to hear, I ask honourable members not to interject or antagonise the Hon. Helen Sham-Ho.

The Hon. Dr B. P. V. PEZZUTTI: I am pleased that the Hon. Helen Sham-Ho has left the Chamber, as she normally does. I do not support the amendment because, like the Government's legislation, it is highly discriminatory. For example, I refer to my son, who is to marry a Canadian citizen who is about to become a permanent resident. She is not yet a permanent resident, but she has applied for permanent residency. Under the Hon. D. E. Oldfield's amendment and the Government's proposal, how could they ever comply with this scheme? Do they both have to be permanent residents? Would this Canadian girl have to be a permanent resident to qualify?

The Hon. J. J. Della Bosca: Only one must be a permanent resident.

The Hon. Dr B. P. V. PEZZUTTI: As I understand the Government legislation, they must both be applicants. Is that right?

The Hon. J. J. Della Bosca: Both or either.

The Hon. Dr B. P. V. PEZZUTTI: Must there not be two people applying for the grant, a spouse, a de facto, or two people living together?

The Hon. J. J. Della Bosca: No.

The Hon. Dr P. Wong: One person can apply.

The Hon. Dr B. P. V. PEZZUTTI: So an individual can apply to be a single home buyer?

The Hon. Dr P. Wong: Of course.

The Hon. Dr B. P. V. PEZZUTTI: Do they have to be married or in a de facto relationship?

The Hon. J. J. Della Bosca: No.

The Hon. Dr B. P. V. PEZZUTTI: So it can be a single person?

The Hon. J. J. Della Bosca: Any one of the parties.

The Hon. Dr B. P. V. PEZZUTTI: Then, to the extent that the Minister explained that this is not discriminatory against a person who is in a relationship with other than a permanent resident and can apply for the grant as a single person, I withdraw my comments.

The Hon. J. F. RYAN [3.41 p.m.]: The Opposition does not support the amendment. It proposes a rather unique way of making certain people in our community eligible for tax concessions while providing that others are not, by virtue of their citizenship status. Many permanent residents of Australia are long-term residents. A provision that citizenship would make a person eligible for financial gain would be a provision that any thinking person would shy away from. The passage of an amendment of this nature might well cause some people to think that some might become citizens purely for the purpose of becoming eligible for a particular government grant. The decision to become a citizen ought to be made on the basis of wanting to become part of the Australian community and should not in any way be influenced by a financial outcome.

Permanent residents who have been here for some years have, of course, been paying tax. One point that the Opposition makes is that the proposal rebates some stamp duty to be collected under the new GST. Of course, everybody will pay GST regardless of their citizenship status. However, foreign tourists will be exempt from GST. That is why they are probably excluded from the bill. The question relates more to the status of tourists rather than the status of residents. I ask honourable members to bear in mind that GST is levelled on everybody and on most items. Particularly with regard to the purchase of a home, it is like no other product. What the Commonwealth Government was seeking to achieve was that the tax should be on everything that one will buy, and this concession was available to everyone regardless of their citizenship status, because it was available to people who pay GST.

The only other comment I would like to make about this matter is made in response to a statement allegedly made by Mr Peter Debnam. I am sure that the honourable member was dreadfully verballed on that occasion. It was an outrageous slur to suggest that he would make decisions on the basis asserted. The Opposition considers all amendments before this Chamber on their merits and not on the basis of who suggests them. There is no doubt that there is a certain relationship in this Chamber with respect to the Hon. Helen Sham-Ho which dates back to the honourable member becoming a crossbencher. However, the Opposition has supported amendments moved by the Hon. Helen Sham-Ho. We do not take into consideration the background of the particular member; we take pride in the fact that all issues are decided on their merits. That is only logical and fair. The Opposition is not able to support this amendment. It is a novel approach to tax concessions that is not part of any other legal regime. That is the basis on which the amendment will not be supported.

The Hon. C. J. S. LYNN [3.44 p.m.]: I endorse the comments made by my colleague the Hon. J. F. Ryan. This matter was debated within our party, and a lot of views were expressed. The key element of the

debate was the reason that people want to become Australian citizens, and that the decision should not be based on the fact that a financial benefit will result. That would be the wrong reason to become an Australian citizen.

The Hon. J. F. Ryan: Citizenship is not for sale.

The Hon. C. J. S. LYNN: It is not.

The Hon. Dr B. P. V. Pezzutti: There should be no bribe to become a citizen either.

The Hon. C. J. S. LYNN: It is not a bribe. People have strong reasons for being in Australia, and some have had permanent residency for many years. As the Hon. J. F. Ryan said, they have made an honest contribution to the development of our society and are part of our society. They have personal reasons of one type or another for not severing homeland connections or taking on Australian citizenship, and we should respect their decisions. But there are many instances of their children becoming Australian citizens and part of the fabric of this great country. We must think to the future, for we are increasingly becoming a global village, with people commuting in and out of countries.

My daughter is married to a Frenchman who has just taken out permanent residency here. They have been employed here in Australia for the past 12 months, but their new employment has taken them to Tunisia, where they will be for the next year, and then they will probably go on to France before returning to Australia. As a parent, I was pleased and proud when Phillip applied for permanent residency. I am sure that will be just one of many steps leading eventually to Phillip becoming an Australian citizen. I would like to think that our grandson will have joint status until he is able to make a decision whether he wants to become an Australian citizen or a French citizen. In the meantime, he will be a world citizen, travelling in and out of both countries. By that time, Australia will be a global village and many people will be commuting in and out of the country.

We want people to become Australian citizens for the right reason—because they want to be Australians. We do not want them to be considering a financial benefit as a reason to take out citizenship. That is a totally wrong reason for someone becoming an Australian citizen. That was the tenor of the debate in our party room. The Hon. J. F. Ryan referred to comments attributed to Mr Peter Debnam. I endorse what the Hon. J. F. Ryan said, and I support the honourable member in opposing this amendment.

The Hon. I. COHEN [3.48 p.m.]: On behalf of the Greens I will speak briefly in opposition to the amendment moved by the Hon. D. E. Oldfield. It has been said before in the Chamber that there are concerns about compelling people to become citizens. Citizenship is an honour for many, and it should be regarded as a purely voluntary act that is consistent with the spirit of citizenship of the Australian community. The Greens will support any member of this Chamber who proposes any type of legislation or amendment that has merit. We have a record that shows that we decide matters exclusively on the merit of the issue, rather than taking into account the personalities involved. The Greens believe that the arguments put forward in support of the amendment are not appropriate. It has been said before that some persons may not choose at a given time to apply for Australian citizenship, either now or at all. That might be so particularly with older people who have a sense of belonging to the countries from which they come.

The Hon. D. E. Oldfield: Then send them back.

The Hon. I. COHEN: People may have family ties in their home country. A significant step for many people to take, in particular the older generation, is to join their families in a new country. We cannot underestimate the emotional attachments that those people have to their home country. Clearly, those people pay taxes, they share in the burdens of living in the community and, in many respects, they are productive members of society. Many other issues have to be taken into account. I do not accept the catchcry that those people should be sent back. That is a tawdry remark.

The Hon. D. E. Oldfield: Let them go back.

The Hon. I. COHEN: The honourable member said, "Let them go back." Fortunately, people in this country are free to come and go as they please. That is a wonderful opportunity that we have in a democracy such as Australia. People are also free to become citizens or not become citizens. That is part and parcel of our democracy. We must maintain that degree of freedom. People must not be coerced into believing that they must take certain steps to fit into society—a matter that must be debated when other legislation relating to people's aspirations and their identification is introduced in this Chamber. On those grounds the Greens cannot support the amendments moved by the Hon. D. E. Oldfield.

The Hon. J. S. TINGLE [3.51 p.m.]: There is some ambivalence about the amendment moved by the Hon. D. E. Oldfield. I believe that there is also some misunderstanding about it. But what is not ambivalent and what is not in doubt is that Australian citizenship is precious, invaluable, and a great privilege. I have never understood why people who intend to live in this country permanently will not or do not become Australian citizens. In my radio days this subject used to come up all the time. If people are prepared to commit the future of their families and their children to a country as wonderful as Australia they should be standing in line to become citizens. People should want to become citizens.

Some people have citizenship of other countries, such as Greece, and they cannot discharge themselves from that citizenship. But dual citizenship is not an impossibility, nor is it a great burden. Many people know that British citizens who have British passports can become Australian citizens and have dual citizenship. I do not believe that the barriers to becoming a citizen are so great that those who intend to become only permanent residents of this country should remain permanent residents and not want to become one with the citizens of this country. It is idiotic for anyone to suggest that somebody would become a citizen for the financial inducement of $7,000.

I do not believe that people who have not bothered to take up citizenship and who are content to remain permanent residents for the rest of their lives would bother to change their minds and become citizens for the sake of $7,000. In fact, people who have been in Australia for any length of time probably would have already purchased their first, second or third homes, and this provision would not apply to them. We must place a high capital and moral value on citizenship. The intention of these amendments is not to coerce people into becoming citizens; the intention of these amendments is to encourage those who decide to do so. On those grounds I find the amendments unacceptable.

Reverend the Hon. F. J. NILE [3.53 p.m.]: When amendments such as these are moved, debate becomes somewhat heated. It has been implied that the amendments moved by the Hon D. E. Oldfield have some racist objective. However, these amendments are non-racist. They apply equally to white Anglo-Saxons who want to remain permanent residents; to white Irishmen who want to retain their Irish citizenship; and to people wanting to retain their British citizenship. These amendments are not racist; they simply are attempting to show that Australian citizens should receive some privileges. Australian citizens who purchase a home will receive $7,000 to offset the costs of the goods and services tax in establishing their first home. The amendments, which appear to me to be reasonable amendments, do not discriminate against Vietnamese citizens living in Cabramatta or any other place. It is my experience that people from Vietnam and other places apply for Australian citizenship as rapidly as possible.

The Hon. Dr P. WONG [3.55 p.m.]: I do not believe that the comment made earlier by an honourable member was meant to be a racist comment. However, it revealed a certain degree of intolerance and a lack of understanding of the definition of the word "citizenship". Reference was made earlier to the fact that people are not taking out Australian citizenship. People from several different countries—and I will not mention the names of those countries—who take out Australian citizenship automatically lose their property rights or assets in those countries.

[*Interruption*]

That is the situation in many countries. Once people from those countries take out Australian citizenship they lose their property and other inheritance. Reference was made also to the concept of dual citizenship. Earlier the Hon. C. J. S. Lynn referred to global citizenship. The world is not limited to this continent. We should all be citizens of the world. The amendments moved by the Hon. D. E. Oldfield, which are narrow and intolerant, refer only to citizenship and permanent residence.

The Hon. J. J. DELLA BOSCA (Special Minister of State, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [3.57 p.m.]: The Government does not accept the amendments moved by the Hon D. E. Oldfield. The amendments seek to require permanent residents to obtain citizenship within 12 months of first becoming eligible to do so in order to obtain the grant. In other words, applicants for the grant must be Australian citizens or become Australian citizens within 12 months of eligibility for citizenship. I remind honourable members that the bill is the result of the Intergovernmental Agreement on Reform of Commonwealth-State Financial Relations signed by all States and Territories. That agreement contained the principles for the first home owners scheme, which extended to citizens and permanent residents of Australia. New South Wales, along with the other States, agreed to implement the scheme as part of its obligations under this agreement. The substance of the bill is the same in all jurisdictions.

The legislation is designed to implement a Commonwealth scheme which is administered and funded by the States and Territories. The Government does not accept the amendments because they would contravene the agreement reached between the Prime Minister and the Premier. They would create different eligibility criteria in New South Wales to the eligibility criteria in other States and Territories. The introduction of the bill would be delayed if endorsement was sought in other States and the Commonwealth and it would render unsustainable initial compliance costs for governments as well as authorised agencies such as financial institutions. Someone who goes to the trouble of coming to Australia, obtaining the status of permanent resident—which is far from easy—and who buys a home is far from being a mere visitor.

The status of permanent resident not only covers new arrivals; it also covers all those who came to Australia as British subjects prior to 1984, many of whom have the distinguished war records and other things referred to by the Hon. D. E. Oldfield. Some residents may have lived in Australia for 50 years, paid taxes and served in the Australian armed forces, and many would no longer be eligible for this grant. Those permanent residents have retained the right to vote and have as much right to be compensated for changes to the tax system. These amendments would overcomplicate the scheme for first home buyers. The scheme applies to first home ownership in Australia and applicants are entitled to expect consistent eligibility criteria, no matter where their home is situated. I add the Government's voice to the sentiments expressed by a number of other honourable members. Australian citizenship is indeed a privilege and an entitlement. We must not be seen to be intimidating people by offering them grants or other emoluments.

The Hon. D. E. OLDFIELD [3.59 p.m.]: I must add a couple of things, given the tenor of the debate. First, the issue of discrimination was raised. I am not a person who, as a general rule, encourages or supports discrimination except in the sense that I think it is fair in some cases for the citizens of one country, in their own interests, to discriminate against others. Often if there is not what would appear on the surface to be discrimination there would be the reverse discrimination against those who had failed to discriminate. Often the citizens of a country are discriminated against by virtue of their lack of discrimination against others.

Of course, the GST was raised by the Opposition, understandably. I put on the record that the GST is an abomination which I hope will haunt members of the Coalition to their graves over a number of elections. I am sure many in the House, regardless of this issue, will agree with me on that. With regard to the Hon. Helen Sham-Ho, I was very pleased to see the Hon. Dr B. P. V. Pezzutti leap to his feet and do what I needed to do myself and would have done, but I am grateful to him for doing that.

Pursuant to sessional orders progress reported and leave granted to sit again.

QUESTIONS WITHOUT NOTICE

AUSTRALIAN LABOR PARTY PRESIDENCY

The Hon. M. J. GALLACHER: My question without notice is to the Special Minister of State. Given the comments by the National President of the Australian Labor Party, Barry Jones, that "there ought to be someone who is available, who is successful, who listens to people at the grassroots", will the Minister give this House a 100 per cent commitment that he will devote his time and energies to his ministerial duties and not seek office as ALP National President?

The Hon. J. J. DELLA BOSCA: I am not sure whether the question asked by the Leader of the Opposition comes within the standing orders, but I will give it my best shot, because he will now claim there are 14 questions I have not answered. *Hansard* will record things differently. This year the Australian Labor Party National Conference will be held in Hobart from Monday 31 July to Thursday 3 August. At this conference the national president and 20 members of the national executive will be elected. I have to say to the Leader of the Opposition in this House that I give an absolute, full-blooded commitment to work hard in any position I undertake. That applies to my role in this Chamber as a member of Parliament and to the Executive Government as a Minister, and to any other party or community role .

WORKCOVER SCHEME REVIEW

The Hon. J. R. JOHNSON: My question is to the Special Minister of State. What is the most recent actuarial advice on the impact of advisory council reforms on the WorkCover scheme?

The Hon. J. J. DELLA BOSCA: That is a very good question, one that should have been asked by the Leader of the Opposition. I have been advised of the final results of the half-year valuation of the WorkCover scheme. The consulting actuaries for the scheme have provided some sobering advice. Reforms put in place by the Government initially showed positive results. Their focus on proactive injury management and early return to work provided for a significant reduction in scheme costs, down to 2.95 per cent of wages from 3.27 per cent. They also resulted in the scheme achieving its first surplus in five years in 1998-99, stabilising the deficit at just over $1.6 billion as at June 1999.

Unfortunately, this positive start has not translated into a long-term trend towards a more affordable scheme. The early gains from injury management appear to have stalled and no further gains have been evident in the past six months. The objective of bringing costs below the current average premium rate of 2.8 per cent has not been achieved. Scheme costs are again on the rise. The annual cost as a percentage of wages paid is now 2.97 per cent, up from 2.95 per cent. The scheme deficit is increasing again. The bottom line as at December 1999 is $1.8 billion, which is projected to increase to more than $2 billion by 30 June 2000. It is clear that further changes of a more substantial and fundamental nature are required. I am undertaking a complete review of the operations of WorkCover. Of course, this includes reviewing the functions of both the board and the advisory council. This is good management practice for which this Government is well known and I anticipate further reports to the House.

ENERGY SERVICES CORPORATIONS
CHIEF EXECUTIVE OFFICERS SALARY PACKAGES

The Hon. D. J. GAY: My question is to the Treasurer, and Vice-President of the Executive Council. Why have both the Treasurer and the Minister for Energy refused to release full details of the salary packages of the chief executive officers of state-owned electricity generators and distributors? In his answer to a question on notice the Treasurer indicated that:

> The average salary package, including superannuation, for the chief executives of state-owned energy services corporations is less than $300,000 a year.

Will the Treasurer now release full details of those salary packages as requested, given that the taxpayers of New South Wales effectively own those corporations? Frankly, they need to know what the people who are supposed to be managing them on their behalf are paid.

The Hon. M. R. EGAN: I am advised that a similar question is on notice from the Hon. J. H. Jobling. However, I will take the honourable member's question on board and provide a considered reply at a later stage.

AIRPORT RAIL LINK COMMUTER SERVICES

The Hon P. J. BREEN: My question without notice is to the Minister for Mineral Resources, representing the Minister for Transport, and Minister for Roads. Will the Minister explain to the House why the Government built a railway station at the international airport and then suggested passengers catch a bus or taxi to the city? Is the Minister aware that the airport rail link has completely disrupted commuter services on the East Hills rail line? Is the Minister aware that commuters at Tempe, Earlwood, Turella and Bardwell Park spend up to 45 minutes each day in extra travelling time as a result of the rail link? Will the Minister explain to the House what he intends to do about the increasing number of delayed and cancelled rail services to Campbelltown as a consequence of the airport link?

The Hon. E. M. OBEID: The Hon. P. J. Breen's question is important and detailed, and I will seek an answer for him from my colleague in the other House.

AQUACULTURE INDUSTRY

The Hon. JANELLE SAFFIN: I direct my question without notice to the Minister for Mineral Resources, and Minister for Fisheries. What assistance is the Carr Government providing to assist the developing aquaculture industry in New South Wales market its products? Will the Internet be part of the strategy to increase this growing industry?

The Hon. E. M. OBEID: No doubt the Carr Government is well known for its strong support and interest in developing aquaculture in the State of New South Wales. Aquaculture has the potential—

[*Interruption*]

I pay the Deputy Leader of the Opposition credit for his good press release yesterday, and I suggest the regions out there will appreciate that he supports good policies. That is what they expect from him. This is very good policy for the regions, and I urge him to listen. Aquaculture has the potential to develop into an industry worth hundreds of millions of dollars. It creates jobs in regional and rural areas, and it benefits local businesses in these towns. The Carr Government is taking a whole-of-government approach to developing the tremendous potential of this industry. We are listening to the industry and potential investors, and we are providing the assistance they need.

The industry has told me that marketing is one area in which they would like the Carr Government's help. This is because, although they may be experts in raising fish, in some cases they may lack marketing expertise or the relative isolation of some rural areas make this an extremely costly and timely exercise. This is where Aquaweb, funded by the New South Wales Government and developed by my department, will have a vital role. Aquaweb will use the Internet to develop online trading for aquaculture products.

It means fish farmers will soon be able to market their product without leaving the farm. The new initiative has been made possible with an $80,000 grant from my ministerial colleague the Hon. Kim Yeadon, the Minister for Information Technology, under the "*connect-dot-n-s-w*" program. Aquaculture marketing on the Internet means our New South Wales industry will be able to market directly to buyers in Australia and overseas, sell online and be better informed about innovative marketing in aquaculture. Once established, Aquaweb will be made available for industry to manage and develop as this new form of e-commerce takes hold in the marketplace. It is anticipated that Aquaweb should be up and running in a matter of weeks.

PUBLIC TRANSPORT COSTS

The Hon. Dr A. CHESTERFIELD-EVANS: My question without notice is addressed to the Treasurer. Does the Treasurer believe that businesses and industries that compete with each other should compete on a level playing field? If so, when his department makes submissions to the Independent Pricing and Regulatory Tribunal [IPART] on public transport fares why does it ignore the need to compare the level of cost recovery from rail users with the level of cost recovery from road users? Why does his department focus on the cost of rail and ignore the cost of roads?

The Hon. M. R. EGAN: The submissions by Treasury to IPART are Treasury submissions. They are not my submissions and they are not the Government's submissions. I am not sure that the premise in the honourable member's question is correct. As the honourable member would be aware, fares amount to about one-third of the cost of providing those passenger services, and I ask the honourable member to reconsider the premise of his question in the light of that information.

The Hon. Dr A. CHESTERFIELD-EVANS: I ask a supplementary question. If the cost of rail is calculated, why is the cost of roads not calculated in the same way? That is the key question. If Treasury is making submissions based on the cost of rail, why does it not also make policy decisions on the cost of roads?

The Hon. M. R. EGAN: I am not quite sure what point the honourable member is getting at. I cannot quite understand the logic. I am not saying that there is no logic, although that is certainly my immediate suspicion. However, I will examine the honourable member's question and determine whether there is any logic in it.

OLYMPIC GAMES SOFTBALL STADIUM DAMAGE

The Hon. J. M. SAMIOS: My question is addressed to the Treasurer, representing the Minister for the Olympics. What was the total cost of damage to the new Olympic softball stadium at Bankstown caused by the Department of Defence when it used the facility for a mock anti-terrorist training exercise? Who will foot the bill for the damage to doors, windows, wall and carpets caused during that exercise? Did the Olympic Co-ordination Authority, the Sydney Organising Committee for the Olympic Games or the State Government authorise the use of the facility for the exercise? Will the Minister give a guarantee that New South Wales taxpayers will not have to pay for the damages caused by the defence department in its preparations for the Olympics?

The Hon. M. R. EGAN: I must admit that I do not know the answer to the honourable member's question. However, I know that the New South Wales Government is always picking up the tab for actions and decisions of the Commonwealth Government, so it would not be anything new.

The Hon. Dr B. P. V. Pezzutti: What an outrage! The army is giving you service for nothing. You're not paying for army services, are you? It is a silly question and a stupid answer.

The Hon. M. R. EGAN: I am not criticising the army. I would not for one moment criticise the Australian Army. I thought the Hon. J. M. Samios was criticising the army, so perhaps the Hon. Dr B. P. V. Pezzutti should seek an explanation from the Hon. J. M. Samios. I can report to the House that I was at Homebush Bay today, with Liesl Tesch, Chris Fydler and Herb Elliott. They are three of the most delightful people I have ever met. I had not had the pleasure of meeting them before, although I did meet Herb Elliott when I think I was about 12. At that time I did not have the presence of mind to get his autograph, but I got his autograph today. Indeed, I got the autographs of the three of them.

The Hon. Dr B. P. V. Pezzutti: Show us!

The Hon. M. R. EGAN: I will, but the honourable member would be embarrassed by the comments that Herb made. I will show him privately.

The Hon. Dr B. P. V. Pezzutti: Did he say, "You are a wonderful man"?

The Hon. M. R. EGAN: Something like that. I was at Homebush Bay on behalf of the Government and the people of New South Wales to witness the last payment for the last permanent Olympic facility, which is the water polo facility at Ryde.

The Hon. Dr A. Chesterfield-Evans: You have stolen our pool. It is going to a Thatcherite mob in England.

The Hon. M. R. EGAN: Don't you want the water polo at Ryde?

The Hon. Dr A. Chesterfield-Evans: I don't want our pool given to a Thatcherite mob in England.

The Hon. M. R. EGAN: You probably don't even want the Olympics, do you?

The Hon. Dr A. Chesterfield-Evans: I am quite happy to have the Olympics but I don't want them to steal our pool.

The Hon. M. R. EGAN: I am very happy that the beach volleyball will be held on my beach at Bondi. I was at Bondi Beach on the weekend, in between preparing my budget.

The Hon. D. J. Gay: With the Mayor of Waverley?

The Hon. M. R. EGAN: No, not with the Mayor of Waverley. There were a few protesters but I noticed that hardly anyone was signing their petition. A huge number of people criticised the protesters as they walked past. The Olympics in Sydney in September will be absolutely first class, as will the Paralympics which will be held a few weeks later. They will make all Australians proud. I assure the House that the suburbs and regions that are not hosting an Olympic event will be very sorry that they are not. The Hon. J. M. Samios should apologise to the Hon. Dr B. P. V. Pezzutti—whose son, I might say, did an excellent job at our budget function last night. He is a fine young man.

The Hon. J. M. SAMIOS: I ask a supplementary question. Will the Minister use his best endeavours to ascertain whether SOCOG, the Olympic Co-ordination Authority or the State Government authorised the use of the facilities, which resulted in damage to the Olympic softball stadium at Bankstown?

The Hon. M. R. EGAN: If the honourable member wants me to do that, I will most certainly oblige.

The Hon. Dr B. P. V. Pezzutti: It is part of realistic and proper training for the Olympics.

The Hon. M. R. EGAN: I am quite happy to allow the Hon. Dr B. P. V. Pezzutti to answer this question on behalf of the Government. It seems that there is division in the ranks. There is not only division between the Liberals, but of course we know that there are huge divisions between the once great National Party and the always puny Liberal Party.

GRADUATES REGIONAL EMPLOYMENT OPPORTUNITIES

The Hon. A. B. KELLY: My question is directed to the Minister for Juvenile Justice, Minister Assisting the Premier on Youth, and Minister Assisting the Minister for the Environment. Will the Minister inform the House of recent Government initiatives to help graduates seek employment in regional areas?

The Hon. CARMEL TEBBUTT: The Hon. A. B. Kelly is well known for his interest in and pursuit of matters of importance to people who live in regional New South Wales. The honourable member has asked particularly about the opportunities for young people in regional New South Wales in their final year of study. Providing the young people of New South Wales with the opportunity to have rewarding lives is the cornerstone of the Government's youth policy. A major part of that policy is a range of initiatives aimed at providing support for young people to find employment. Initiatives already implemented include the Government's 1999 Ready for Work Plan, the Jobs Line phone information service, and a web site for young people applying for New South Wales Government jobs.

The Government is also encouraging young people to develop practical skills in business through enterprise education. Last week in Bathurst I hosted Prospects 2000—Graduate Networking to Work. It was a very successful event. Prospects 2000 brought together final-year students from Charles Sturt University and employers from across the Central West of New South Wales. There was a great deal of interest from the students and employers, with more than 120 students and employers participating on the night.

Prospects is a concept by which we can bring young graduates and people about to graduate together with business and government leaders, to form connections and networks for developing their career paths and employment options. The event came about as a result of the recognition that there is an untapped resource of highly qualified, creative and work-ready young people in New South Wales. One-third of all 20- to 24-year-olds in New South Wales have recognised qualifications. Young people have followed the advice they have been given: to stay on at school and get a qualification. However, many people under 25, despite their tertiary qualifications, are unable to find work. Often one of the issues for graduates is not being appropriately linked into a network that can be quite useful in finding future employment.

Last year the Government hosted a Prospects event with young graduates in Sydney. The event brought together some well-qualified and very talented young people who had been unable to use their skills in the workplace, and business and government representatives. The Government decided to take this model of networking out of the city and encourage events in regional areas. Charles Sturt University expressed an early interest in hosting a Prospects event, building on the success of a Sydney event in August last year.

The opportunities for networking and employment links in a growing and dynamic regional community such as Bathurst in the central west made it a logical place to host a Prospects event. With its diverse industry base, its strong education economy and major regional businesses in the district, the central west presents enormous opportunities for young graduates. It is also a place where young people can stay and find careers that are not available in many regional communities. In fact, it is the lament of many regional communities that they lose their young people to jobs in the city.

Promoting employment opportunities and challenges is a priority for the New South Wales Government. We know that the employment market can be challenging and difficult. Many young people have found it difficult to use their knowledge and skills in the work they do, and are either unemployed graduates or underemployed graduates. Prospects helps demonstrate that there is a wealth of young graduate talent available and makes it easy for employers to find young people. A formal evaluation of Prospects will take place during the year. Certainly the feedback from the students and employers at the event in Bathurst last week was extremely positive. Many positive comments were made about the opportunities provided to bring the two groups together.

CHELMSFORD VICTIMS ACTION GROUP FUNDING

The Hon. I. COHEN: My question is directed to the Treasurer, representing the Minister for Health. Is the Minister aware that the Chelmsford Victims Action Group has not yet received the grant of money pledged to the group by the Premier's Department during the Coalition's last term in government for the establishment of a support service? Will the Minister explain why the group, which comprises victims of medical malpractice, is being compelled to gain non-government organisation status, with its detailed requirements, in order to receive the promised funding? Given that New South Wales Health joined the New South Wales Medical Defence

Union to fight the Chelmsford victims' claims for compensation, will the Minister investigate a possible conflict of interest in the mental health branch of New South Wales Health administering the grant for the Chelmsford Victims Action Group? In light of previous publicity regarding the Chelmsford scandal and the ongoing suffering of the victims, will the Minister expedite the release of this grant?

The Hon. M. R. EGAN: I would be pleased to take up the matter with my colleague the Minister for Health on behalf of the Hon. I. Cohen and will advise the honourable member when I have received a response.

WESTFIELD HIGH SCHOOL TEACHER ASSAULT

The Hon. C. J. S. LYNN: My question without notice is directed to the Special Minister of State, representing the Minister for Education and Training. Is the Minister aware of the recent school invasion at Westfield High School which resulted in a student from Fairfield High School assaulting a Westfield High School science teacher, Mr Reg Barr? Is the Minister also aware that Mr Barr suffered a fractured cheekbone and continuing lack of sensitivity in much of his face as a result of this vicious and unprovoked assault? Is it a fact that the Minister's department has not taken any action in relation to this incident? Is it also correct that the Minister's department did not even take out an apprehended violence order [AVO] against the student on behalf of Mr Barr? If so, why not? What protective measures will the Minister put in place to guarantee the safety and security of teachers and students in western Sydney schools as a result of this outrageous incident? Is the Minister aware of similar assaults by students against teachers in any other schools in greater western Sydney? If so, will the Minister provide details of those assaults to the House?

The Hon. J. J. DELLA BOSCA: I am not aware of any media reporting in relation to the event that the Hon. C. J. S. Lynn describes. I do not recall the matter being reported in the metropolitan press, although I am sure that if an incident of the nature referred to by the Hon. C. J. S. Lynn occurred it would have been widely reported in the local press in the vicinity of the two schools allegedly involved. With regard to the alleged assault on the teacher, Mr Barr, I have no idea why the department has not applied for an AVO with respect to that or, indeed, whether it would be the function or responsibility of the department. However, I am very happy to seek advice from the Minister about whether that is the case and whether he would propose that the department should apply for an AVO at some future point in time.

If the chain of events were anything like those described by the Hon. C. J. S. Lynn, it would appear to be more of a police matter than an education matter. As the honourable member has requested, I will refer the matter to the Minister for Education and Training for his attention, and he may choose to refer the matter on.

FAMILY LAW LEGAL AID CONFERENCING

The Hon. R. D. DYER: My question without notice is directed to the Attorney General, and Minister for Industrial Relations. Will the Attorney inform the House about the expansion of the legal aid conferencing program to assist people with family law matters in regional and rural New South Wales?

The Hon. J. W. SHAW: I thank the honourable member for his question and for his continuing interest in legal aid and its development in New South Wales. The Legal Aid Commission will significantly increase the use of conferencing in family law matters in the next 12 months. It is anticipated that approximately 2,300 family law cases will be referred for conferencing in this period. The expansion will involve an increase in the current number of conference mediators from 58 to approximately 150 and the establishment of conference panels in regional centres.

Telephone conferencing is currently available statewide. However, the expansion program will for the first time introduce face-to-face conferencing in regional New South Wales. Initially it is intended that regional services will become available at Newcastle, Wollongong, Wagga Wagga, Coffs Harbour, Taree, Tamworth and Dubbo. To facilitate the establishment of these regional services the commission will conduct training courses in those locations between June and August this year. The training will take the form of four-day mediation courses for those who have no mediation training and one-day bridging courses for those who are already trained mediators. The four-day courses will train participants in mediation skills and the conferencing process whereas the one-day courses will focus on features that are unique to the family law conferencing model.

The first of the regional panels is expected to be in place before 1 July this year and the remainder will follow early in 2001. Subsequent expansion of the program will see the setting up of regional panels in additional locations. It is anticipated that most of the new regional chairpersons and panels will be drawn from

the ranks of country solicitors and people who have relevant social science backgrounds. To this end, advertising has been placed in the *Law Society Journal* seeking expressions of interest from private solicitors in targeted regions who are willing to undergo chairperson training. The commission has also written to regional law societies requesting them to publicise the courses locally.

In adopting this strategy, the commission is mindful that in the current financial year to date the agreement rate for conference matters is 88 per cent. That is, in 88 per cent of the conferences held, the parties have reached agreement in full or in part on issues in dispute between them. It is anticipated that similar rates of resolution will apply to the expanded service. Conferencing in family law gives people the opportunity to resolve their dispute as early as possible without the additional strain of court proceedings.

OLYMPIC AND PARALYMPIC GAMES BEHAVIOUR STANDARDS

The Hon. A. G. CORBETT: My question is directed to the Treasurer, representing the Minister for the Olympics. Has the Sydney Organising Committee for the Olympic Games [SOCOG] written to all the countries due to participate in the Olympic Games and Paralympic Games to inform them of the standards of behaviour under New South Wales laws that will be expected of their athletes and officials? What measures have been put in place to deal with those athletes or officials who deliberately damage the Olympic Village or any part thereof during the games? Who will pay for any damage caused to the village during the Sydney games?

The Hon. M. R. EGAN: I do not know the answer to the question asked by the honourable member, but I would be surprised if SOCOG has written to overseas teams in the terms suggested by the honourable member. Certainly, if I were a member of an Australian team visiting an overseas country and was informed that the laws of that country prevented me from doing damage to the Olympic village or whatever facility I was using, I would be somewhat offended. I would have thought that all Olympic teams would understand what is required of them. If there are some peculiarities of New South Wales laws or requirements that should be brought to the attention of overseas teams and officials, that is a different matter. In cases instanced by the honourable member, I would expect that SOCOG would not in the normal course of events write to overseas Olympic teams on those matters.

The Hon. A. G. Corbett: Will the Treasurer refer the question?

The Hon. M. R. EGAN: If that is the wish of the honourable member, I will refer the question to my colleague in the other place.

DAIRY INDUSTRY NATIONAL FLOOR PRICE

The Hon. R. T. M. BULL: My question is addressed to the Special Minister of State, representing the Minister for Agriculture. I preface my question by stating that I would have preferred to have directed the question to the leader of Country Labor but he has left the Chamber.

The Hon. M. R. Egan: That is me.

The Hon. R. T. M. BULL: No, the Treasurer is a city person. Is he aware of criticism from the Australian Dairy Industry Council regarding Country Labor's plans to introduce a floor price for the dairy industry? Is he also aware that the chairman of the council, Pat Rowley, has labelled the plan a cruel hoax that will build up false expectations among some producers? Why has Country Labor put forward a plan which is ultimately unsustainable and opposed by the industry?

The Hon. J. J. DELLA BOSCA: I am not in a position to answer the question asked by the honourable member. Clearly, in common with most matters concerning Country Labor and those that the Hon. R. T. M. Bull brings to the attention of the House, this is a matter that needs to be taken very seriously and requires the full attention of the portfolio Minister whom I represent. I will ask my colleague to provide an answer as soon as possible.

WESTERN SYDNEY INDUSTRY ASSISTANCE

The Hon. I. M. MACDONALD: My question without notice is to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Will the Treasurer update the House on the benefits to companies in Western Sydney arising out of the Government's contract with the Industrial Supplies Office?

The Hon. M. R. EGAN: I thank the Hon. I. M. Macdonald for his very important question. As honourable members are no doubt aware, the Government works with the Industrial Supplies Office [ISO] to help New South Wales companies find new markets and curb the flow of imports. I am pleased to be able to report to the House that the ISO recently achieved some significant wins for companies based in Western Sydney. Two companies to benefit are Symonite Australia and Baker and Provan.

Symonite Australia is a manufacturer of specialised facade panels for building and civil structures. Locally, their products are used on the overhead roads at the revamped Sydney airport. The project involved 14,000 square metres of metal panelling, which I understand is worth $1 million. With assistance from the Industrial Supplies Office and Austrade—and I give credit to Austrade, which does a good job—Symonite Australia has managed to crack the huge Hong Kong construction market.

After being introduced to Symonite's products, Hong Kong based Craft Constructions placed an order for nearly 1,600 square metres of fire-resistant panel to be used on the new IBM ITP building in Shenzen, China. All of Symonite's products replace imports or are exported. Symonite also sources the bulk of its materials from suppliers in the Western Sydney region. Baker and Provan is another successful company that is receiving valuable support from the ISO. Baker and Provan is based at St Mary's and has been there and to my knowledge since the year I was born, namely, 1948. That company manufactures custom-built machinery for the medium to heavy engineering sector. Companies such as BHP approach Baker and Provan with requirements for conveyors and cranes that they require to be built to precise specifications. The company has a highly skilled workforce of approximately 50 people and has links to local universities and research and design organisations.

The Hon. C. J. S. Lynn: They were an award winner at the Western Sydney Business Awards this year.

The Hon. M. R. EGAN: I commend Baker and Provan on its success. With the help of the ISO, the company is currently attempting to broaden its capabilities in other industry sectors such as defence. Recently Baker and Provan designed and built cranes for the Royal Australian Navy ships. Companies such as Symonite and Baker and Provan are working hard to ensure the future economic prosperity of Western Sydney. They are smart, high value-adding companies. I am sure that I speak for all honourable members of this House in congratulating the companies on their success. I look forward to providing to the House updated information on these companies and the work of the Industrial Supplies Office in the near future.

OLYMPIC GAMES EXPENDITURE

The Hon. M. I. JONES: My question is directed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. As the New South Wales Auditor General has criticised estimated indirect tax receipts because they are not to be included in the total net cost of staging the Olympic Games, and as that has the potential to create a blow-out of $602 million, will he maintain his assurances to the Parliament that the Olympic Games will be staged at no unfunded cost to New South Wales taxpayers?

The Hon. M. R. EGAN: I will refer the question to my colleague the Minister for the Olympics.

ACMENA JUVENILE JUSTICE CENTRE MANAGEMENT

The Hon. PATRICIA FORSYTHE: My question without notice is to the Minister for Juvenile Justice. When will the Minister be in a position to give a guarantee about the safety of staff and detainees at the Acmena Juvenile Justice Centre at Grafton? Were the Minister's comments in this House last November—that problems at the centre were not unusual for a new centre—an underestimation of the management problems at the centre?

The Hon. CARMEL TEBBUTT: I thank the Hon. Patricia Forsythe for her question and for the opportunity to provide some more information to the House about the Acmena Juvenile Justice Centre because, clearly, two disturbances in a short period of time indicates that there are problems in the functioning of the centre. Last Monday week I asked the department to urgently review all aspects of the operations at Acmena. The disturbances to which I have already referred led to the transfer of four detainees to the maximum security facility at Kariong, and the actions of other detainees involved in the disturbances were referred to the police for investigation. Those disturbances highlight the volatile nature of the department's detention centre clients and the need for constant review of programs and routines.

As honourable members will recall, and as referred to in the question of the Hon. Patricia Forsythe, Acmena experienced some difficulties late last year which were resolved with the assistance of senior management of the department. As a result of my recent request for a review of the centre, the department sent its most senior detention centre manager to Grafton to assess the situation and to report on what changes may be needed to address the concerns of staff and the community. The priority is the safety and security of staff. In addition, the department's Director of Operations spent two days at Acmena last week talking to staff and detainees.

I have been advised today that the manager of Acmena has been transferred to other duties, pending a final decision on the future management of the centre. In the interim, an acting manager has been appointed. Legal advice to me is that while the department is giving a full, fair and proper consideration to the management issues, it would be unwise for me to say more on this issue at the present time. The department's Director of Operations is at the centre today to complete his assessment. He will advise me constantly on progress and whether any further action is necessary. The Public Service Association, which represents Acmena staff in discussions with the department, stated in the Grafton *Daily Examiner* on Saturday that it was confident that all issues of concern were being addressed and would be resolved in the near future. When the review of the centre's operations has been finalised, I will report any further details to the House.

ENTERPRISE BARGAINING

The Hon. P. T. PRIMROSE: My question is to the Attorney General, and Minister for Industrial Relations. Will the Minister inform the House of the progress of enterprise bargaining under the New South Wales industrial relations system?

The Hon. J. W. SHAW: I can give the House some information about that topic. Enterprise agreements and enterprise awards are the twin streams of the enterprise bargaining system in New South Wales. Those in the New South Wales system who want to make enterprise level arrangements can choose enterprise agreements or enterprise awards according to their preferences and their experience of what works best in their enterprise. The evidence from lodgment rates shows that both types of industrial instruments are being actively taken up by parties. From January 1997 to December 1999 there has been a strong level of activity in enterprise instruments, with 693 applications for new or varied enterprise awards being lodged, and 911 applications for enterprise agreements—a total of just more than 1,600.

Notably, compared to the previous Government's Act, the processing and approval times of enterprise agreements have dramatically improved under the 1996 Act introduced by our Government. For instance, it took an average of approximately 25 days to approve each enterprise agreement in 1999 compared to approximately 81 days under the 1991 Act. The processing of agreements under the 1996 Act is now a little more than three times faster than it was in times gone by! By making it simpler and more user-friendly for those making awards and agreements, the New South Wales system encourages parties to focus on the content rather than the form of arrangement, which facilitates workplace innovation. Achieving workplace innovation assists the New South Wales economy to remain internationally competitive and enhances the productivity of the State. This meets the overarching objective of the Government's industrial relations agenda to increase the productivity of the State via equitable workplace reform.

It is ironic to reflect on the tumultuous debates that occurred in 1996 about the shock-horror phenomenon, from the Coalition's point of view, of having the Industrial Relations Commission effect and approve enterprise agreements. This was regarded by the Opposition as the end of civilisation as we know it. In fact, it has proved to be remarkably effective and useful in achieving workplace reform in New South Wales.

The Hon. Dr B. P. V. Pezzutti: The tragedy was that it forced people to use trade union bullyboys in enterprise bargaining agreements.

The Hon. J. W. SHAW: On the contrary, the Coalition was prepared to go to the barricades on this issue. It was prepared to fight tooth and nail against the idea of a quick, simple way of approving enterprise agreements, and it is now embarrassed by the successful result that we have secured for New South Wales. New South Wales has a system which actually works and is supported overwhelmingly by the employers of New South Wales. That is the paradox! In 1996 the Coalition, in its naivety and ignorance, was prepared to fight tooth and nail against a system that is supported across the board. I am personally pleased with the success of the system that we introduced.

CASUARINA BEACH ESTATE DEVELOPMENT

The Hon. R. S. L. JONES: I ask the Special Minister of State, representing the Minister for Urban Affairs and Planning: Has illegal clearing occurred on the Casuarina estate, north of Cabarita, and was nothing done about it? Is Tweed Shire Council also about to approve construction beyond the 7F zone, erosion coastal line, on residential lots in the estate? Have developers on the estate also been allowed to make arbitrary decisions about the location of the high watermark or tidal line affecting Cudgen Creek? Is the Minister aware of the intense controversy surrounding this development in this highly sensitive habitat? Will the Minister immediately order an investigation into the probity of the process leading to its approval by council? Will the Minister use his powers under the Act to call in the development?

The Hon. J. J. DELLA BOSCA: The question is of great interest but obviously relates to a series of technical matters about a specific development and involves some specific planning and environmental issues. I will refer it to the Minister, who, I am sure, will provide the House and the honourable member with a prompt and appropriate response. I might say it seems that we are confronted with some sort of trade-off because, as I understand the sense of the member's question, it involves the use of the fairly centralised powers of the Minister. I would have thought that the Hon. R. S. L. Jones, given his political persuasion and perspective, would oppose the use of those powers. Having made that small point, I will refer the question to the Minister and obtain an answer as quickly as possible.

MURRAY-DARLING BASIN NATIVE FISH STOCKS

The Hon. JENNIFER GARDINER: I will speak softly so that I do not wake the Leader of the Government during question time.

The Hon. M. R. Egan: I'm listening!

The Hon. JENNIFER GARDINER: My question is to the Minister for Mineral Resources, and Minister for Fisheries. As the Minister is aware, the Commonwealth Government allocated funds to New South Wales Fisheries for the financial year about to end for two important projects to help re-establish the native fish populations in the Murray Darling Basin. Can the Minister advise the House of the progress of these projects, specifically as they relate to the flow, so to speak, of fish across culverts, causeways and other obstructions?

The Hon. E. M. OBEID: I will get details of the specific amount that the Commonwealth has contributed. The Department of Fisheries has invested a lot of time and money to overcome the obstructions caused by the 4,000-odd weirs in our waterways that block the movement of fish, particularly in the breeding season. In order to provide the honourable member with a satisfactory answer, I will seek details of the exact amount that the Commonwealth has contributed and provide the honourable member with the answer.

WESTERN COALFIELDS

The Hon. A. B. MANSON: I direct a question without notice to the Minister for Mineral Resources, and Minister for Fisheries. Minister, I note that you recently visited the western coalfields. Is there any promising news for the industry in this area?

The Hon. E. M. OBEID: I commend my colleague the Hon. A. B. Manson for his continuing interest in mining in this State and in the welfare of miners, particularly in our coalfields. Yes, last week I visited the western coalfields and met with industry, unions and the community and predominantly listened to their concerns. My visit included site inspections of the Clarence, Springvale and Baal Bone collieries and inspection of the Mount Piper power station. The Carr Government's recent strategic study on the future of the western coalfields forecasts a positive future, with increasing production and growing world demand for thermal coal.

During my visit to Lithgow I officially handed over a new underground mining lease for the Ulan coalmine, which is located nearly 40 kilometres north-east of Mudgee in the Central West. This new lease is great news for the Mudgee community. It will help to protect the jobs of 400 mineworkers and provide greater security for families living in the Mudgee area. It is anticipated that the new lease will expand the life of that mine by 21 years—that is two decades of regional jobs secured for the Mudgee community.

Not only is Ulan a major employer in this area, it is also an important contributor to Mudgee's economy, injecting up to $100 million a year into local businesses. Thanks to this new lease, Ulan colliery will

increase production from 3.5 million tonnes a year to 6 million tonnes a year. Ulan is expanding its operations to meet the current challenges facing the New South Wales coal industry and is helping to build our State's reputation for efficient and reliable production. The colliery has been an important part of the western coalfields since it opened its first underground mine in the 1920s.

This expansion has been designed to minimise impact on the environment and areas of important Aboriginal heritage. The traditional owners of this land were widely consulted and the New South Wales Government approved the granting of the lease after agreement was reached between the company and Aboriginal communities. Extensive studies have also been undertaken in the area to identify any sensitive and valuable features of the environment. This new lease provides greater security for the western coalfields, and it is great news for the Mudgee community.

DUBBO POLICE CAR VANDALISM

The Hon. ELAINE NILE: I ask a question without notice of the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Is it the fact that teenagers firebombed two police vehicles in Dubbo, one being a $60,000 highway pursuit car equipped with radar, that officers were pelted with bricks and bottles, and that one officer sustained a deep wound to the arm? Is it the fact that this act of vandalism has destroyed half of the police pursuit cars stationed at Dubbo? Have the police determined whether there is any connection between the teenagers involved in this attack and the teenagers who were refused attendance at school by the Department of Education and Training due to their unruly behaviour? What action is the Government taking to address the serious youth delinquency crisis in the Dubbo region?

The Hon. M. R. EGAN: I thank the Hon. Elaine Nile for her question, which I will refer to my colleague the Minister for Police to obtain a response as soon as I can.

BROKEN HILL BLOOD BANK SERVICES

The Hon. D. F. MOPPETT: I direct a question to the Treasurer, representing the Minister for Health. Is the Minister aware of representations from Broken Hill City Council requesting that the blood bank service be restored in the city as a matter of urgency? Why it is it that the Minister has not seen fit to respond to that correspondence from the Broken Hill City Council on the subject?

The Hon. M. R. EGAN: I will refer the question to my colleague the Minister for Health.

PARLIAMENT HOUSE STUDENT ARTWORKS DISPLAY

The Hon. H. S. TSANG: My question without notice is to the Treasurer. Would the Treasurer please provide the House with details of the best artwork from students across New South Wales that is now hanging in his ministerial office?

The Hon. M. R. EGAN: I am delighted to inform the House that in my office I have, altogether, 32 student artworks on display, most from the education department's William Wilkins Memorial Art Collection. Since the works were hung in February we have had an extraordinary amount of interest from many of the politicians, business people and members of the general public who visit my office every day. The Hon. Dr. B. P. V. Pezzutti is most welcome to come and have a look at them. Some of his colleagues have, and they have been most impressed by the artworks.

The Hon. Dr B. P. V. Pezzutti: I did not know they were there.

The Hon. M. R. EGAN: That is why I am telling the House now. Five of the works have been lent to us directly by the student artists. I am particularly grateful for those loans, and recently I held a morning tea to show my gratitude.

The Hon. Dr B. P. V. Pezzutti: I hope you are looking after them.

The Hon. M. R. EGAN: The paintings?

The Hon. Dr B. P. V. Pezzutti: Yes.

The Hon. M. R. EGAN: Absolutely. At that morning tea were the honourable member for Manly, the honourable member for Davidson and the honourable member for Canterbury, who had with them young constituents. I am not sure that they were actually voters, but they were young constituents who had created some of the works that hang in the office. Despite having previously had some fairly interesting works on our walls, I have to say that very few people ever commented on them in the four or more years that I had them, but now nearly every day someone tells me how much they admire the art hanging in the room. Student artworks from last year's HSC—note that I said haitch, not aitch—

The Hon. J. F. Ryan: Incorrect.

The Hon. Patricia Forsythe: It is pronounced aitch.

The Hon. M. R. EGAN: It is haitch.

The Hon. Dr B. P. V. Pezzutti: You old Hanrahan, you!

The Hon. M. R. EGAN: No, I am not a Hanrahan.

The Hon. Dr B. P. V. Pezzutti: Yes, you are—an Irish Mick.

The Hon. M. R. EGAN: I am the very opposite of a Hanrahan. Student artworks from last year's HSC included one by Hayley Corbett from SCEGGS Redlands Cremorne titled *Marney Gran & Pop*; a creation by Joseph Danquilan from Belmore Boys High School titled *Still Life*; a work by Mika Paech from Glenaeon Rudolf Steiner School, Middle Cove called *The way of choice*; one by Katie Rudder from Kingsgrove North High School titled *Subliminal dominance*; and a work by Kiyoto Suzuki from Killara High School titled *Sea through the ages*. Again I extend my thanks to the students on the wonderful impact on the overall look that the artwork has given to my office.

The Hon. Dr B. P. V. Pezzutti: When will the art gallery in your office be open?

The Hon. M. R. EGAN: It is open during normal business hours, and the Hon. Dr. B. P. V. Pezzutti and other honourable members are welcome at any time to come and see them. They will also see on the walls a rogues gallery of every Treasurer that this State has ever had, including Nick Greiner, Peter Collins, John Fahey and other disreputable characters, but they will also see photographs of some very fine Treasurers, including Sir William McKell, Bob Heffron, Joe Cahill and a couple of former Prime Ministers who earlier were Colonial Treasurers of New South Wales.

In fact the term "Colonial Treasurer" existed until about 1959. The late John Joseph Cahill changed the title to Premier. John Joseph Cahill is one of my heroes. I remember listening to John Joseph Cahill's 1959 policy speech on the radio. The speech, which was delivered at Paddington Town Hall, was a fine speech. I thought to myself: This man is going to win. The applause after every sentence was just magnificent. As a young 11-year-old I was confident, listening to the broadcast, that John Joseph Cahill would lead Labor to a great victory at that election, which he ultimately did. My confidence was well placed. He was a great Premier and a great Treasurer. I do not know how I got on to talking about him.

[*Interruption*]

I am a great supporter, and I always have been, of the Cahill Expressway. It would cost an exorbitant amount of money to pull down that expressway. I actually think that that precinct works as it is.

The Hon. Dr B. P. V. Pezzutti: So you have become an architectural critic too, have you?

The Hon. M. R. EGAN: Yes. Talking about architecture, I hope that honourable members have seen my heavenly spires. I invite honourable members to look at the spires and at the Cahill Expressway. They should also come to my office and look at the artworks. I extend that invitation to all honourable members, including Reverend the Hon. F. J. Nile. The artworks and the spires are very interesting.

JOHN NEWMAN MURDER TRIAL

Reverend the Hon. F. J. NILE: I ask the Attorney General a question without notice. Is it a fact that the murder of John Newman, a former member for Cabramatta, occurred in 1994 but no-one has been found

guilty and convicted for this cowardly, political murder? Mr Newman campaigned against organised crime, particularly in relation to illegal drugs. Did one dissenting juror—11 to one— cause the recent failure to convict the persons charged with John Newman's murder and the jury to be dismissed because of its failure to reach a unanimous verdict? Is it fact that, according to one juror who confided in me of her own volition, the one dissenting juror appeared to support the charged persons from day one, in spite of the overwhelming evidence? Will the Government fully investigate the actions of this one dissenting juror to ensure that there was no perversion or corruption of justice involving the murder of a member of this Parliament?

The Hon. J. W. SHAW: The honourable member has asked me a question about an extraordinarily sensitive issue. I think all honourable members know that there is likely to be another trial in this matter before a judge and a jury. I am reluctant to get into the matter. I do not really want to affirm or deny what are said to be the facts of the deliberations of the jury in that case. The traditional view of the law has been that the determination of a jury is as inscrutable as the Sphinx—that is, that one does not go beyond the actual verdict, or lack of a verdict, and one does not inquire into it.

There has been some controversy about the reporting of this matter by the *Sydney Morning Herald*. The defence by the *Sydney Morning Herald* is that a juror, or a number of jurors, came to it and gave it certain information; therefore, publishing what is said to be the account of the internal deliberations of the jury is not a contravention of any law. I hope that the honourable member will forgive me, but I do not think that I should get involved in this matter. I have played a quiet and advisory role in relation to a number of matters but I do not think I should publicly say anything further about that trial or the prospect of a retrial in relation to that allegation of murder.

The Hon. M. R. EGAN: If honourable members have any further questions, I ask that they place them on notice.

Questions without notice concluded.

STANDING COMMITTEE ON LAW AND JUSTICE

First Report of the Inquiry into Crime Prevention Through Social Support

Debate resumed from 3 May.

The Hon. JENNIFER GARDINER [5.06 p.m.]: The last time that this matter was debated I drew attention to the difficulties being encountered in maintaining law and order in the city of Armidale. I will not recap on those issues other than to say that, unfortunately, as recently as last night there was an armed hold-up in that city. So obviously that community still has ongoing concerns about the types of issues raised in this important report of the Standing Committee on Law and Justice. I was particularly interested in recommendation 11 of the committee's report which relates to local government and crime prevention. The recommendation states:

> The committee recommends that the Department of Local Government urge all local councils to consider their responsibility for preventing crime within their area. The committee recommends this be formalised by requiring councils to report in their annual report or their Social Plan on the decisions they have made regarding the need for crime prevention within their area. In making this recommendation, however, the committee does not support councils being given a mandatory crime prevention function.

Honourable members may be interested to know that the Grafton community is greatly concerned about what has been described locally as a crime wave. Honourable members might be aware that, because of a spate of violent assaults and incidents of vandalism in that community, a community group headed by Mr Steve Cansdell, the Deputy Mayor of Grafton, has commenced patrolling Grafton at weekends. The group has been doing that now for a couple of months with the support of the local police. The Deputy Mayor of Grafton, who organises these patrols, said that his community was concerned that its good reputation and its image as a country town were being tarnished because residents no longer felt safe walking the streets at night. As he put it:

> We are doing the police's job because they are understaffed. If they had just two more officers we—

the patrollers—

> would not be needed.

In the wake of recent announcements about police staffing across the State, that situation has not been recognised by the current Government. Mr Cansdell pointed out that one weekend it took 40 minutes for police to get to a call-out because their night vehicle had been called out to another job, which meant that no officer was on duty in Grafton.

Members of the group tend to describe themselves as neighbourhood watch on wheels. They go out on weekends. They have two cars on patrol each night and they act, as they put it, as the ears and the eyes of the police and report back to the police station any criminal activity. They claim they have already succeeded in having a number of arrests made and apparently there is a significant reduction in the number of shopfronts being smashed and there has been a decline in the incidence of graffiti appearing in Grafton. They also came across a teenager, a girl, who was found unconscious in the street because of alcohol poisoning. It can be said, therefore, that they contributed to saving the life of that girl.

It is interesting, in the light of the standing committee's report, that the deputy mayor has said that boredom amongst young people was a trigger for crime in country areas like Grafton, and most offenders seemed to be aged between 15 and 22. So far the response from the people of Grafton has been positive. They seem to feel safer because of the work of this particular group that works under the auspices of the council and with the co-operation of local police. Inspector Arthur Graham of the local police said it was great to have residents helping to prevent crime. He had some reservations about people being involved in police work, which is probably quite reasonable because, as he pointed out, they are not policemen, they are concerned citizens.

However, it is good that local councils are becoming involved in these issues, although it should be the primary responsibility of the New South Wales Police Service to make sure communities are safe to live in. I certainly agree with the standing committee's recommendation No. 11 that it should not be left to councils to have a mandatory crime prevention function; that that should continue to be the responsibility of the State Government. With those words I commend that recommendation and a number of others from this report. I have distributed the report to quite a number of people in various country centres and regional cities to make sure that some of the positive ideas in this report, from places such as Moree and Ballina, are emulated more broadly across regional and rural New South Wales.

The Hon. D. F. MOPPETT [5.12 p.m.]: The other day I happened to purchase a copy of Dostoevski's *Crime and Punishment*. It must seem to the Hon. R. D. Dyer that a novel written in the nineteenth century has little relevance to this wonderful work before the House today.

The Hon. R. D. Dyer: We do recommend different approaches!

The Hon. D. F. MOPPETT: You do. I mention it today only because it reminds me, sadly, that when many people in our State and Australia hear the word "crime" their minds turn to punishment. That is a totally inappropriate and at least inadequate response to the problem of offending behaviour in our society. I recommend to those who want to understand the subject better—the causes of offending behaviour and crime, and signposts to how we might better deal with it—that they take a copy of this report and thoroughly read it. It is no surprise to me. I would have expected no less from the members of the committee and I am sure they want to attribute to the staff of their secretariat a great deal of credit. I recognise that the people on the Standing Committee on Law and Justice have applied their experience and their urbanity to what is a difficult subject in a modern, complex society.

At the same time I would particularly like to congratulate the Chairman, the Hon. R. D. Dyer, for his overall role in guiding the development of this report. I also thank him for the generous comments he made about the people of Coonamble and district for the way in which they have shown leadership in adopting some of the innovations that have been offered to develop programs within their community to overcome offending behaviour, particularly amongst young people. His comments were generous and I took the opportunity to report them, by way of a press release, to the community so that those efforts do not go unnoticed.

I am sure that all honourable members followed with great interest the visit to Bourke by Her Majesty the Queen and will have noticed the wonderful reception she received, particularly her meeting with Paul Loxley, the principal of the public school. I met Paul Loxley during the Standing Committee on Social Issues inquiry into juvenile justice, which finally led to our recommendation for youth conferencing. A lot of sceptics were around in those days but the Attorney General had at the time—and I always struggled to get the title right—an advisory committee on Aboriginal affairs, with Justice Bellear and a number of other prominent Aboriginal people. We went around the north-west, including Bourke, and spoke again with Paul Loxley. It was wonderful to see the way the people out there, even those who were initially sceptical about what we were saying, were prepared to give it a go and wanted to look at new ways to approach and deal with offending behaviour, not just talk about locking them up and throwing away the key.

Such a measure only produces a subclass in society which, to maintain its own self-esteem, continues to offend. Unless one understands the backgrounds and causes, one will never have any impact on the rate of offending in our community. I thought I had a reasonable idea of the ins and outs of the subject, but when I read this report I realised just how superficial my knowledge on the subject was. I was tremendously interested to read the causes or, shall I say, the predisposing factors, the indicative factors, that are often spoken about by people such as Don Weatherburn, that tend to be present when one examines the profile of offenders. Many of them are well known; I do not have to list them all. They include a familial history of contact with the law, socioeconomic conditions, and a whole range of cultural conditions.

There was a clear statement that no single factor could be identified in a person's background—that is, we could not make a cell ready for a person on the basis that he will certainly offend at some point of time. The interaction of all these factors and the lack of assistance to avoid the traps finally produces offending behaviour. When we were in New Zealand we talked to people about the application of their family group conference, as they called it. I remember the Hon. Elisabeth Kirkby saying that the problem in New Zealand must be a lot worse than it is here because its social security system is so much less generous than Australia's and it therefore must have many people in deprived socioeconomic circumstances.

One of the youth workers—I am not sure what their official title is—turned around smartly and said, "I know a whole range of people who are in difficult socioeconomic circumstances. When one is an offender I confront him with 'What's your excuse? Why are you offending when many other of your fellows who are in equally necessitous circumstances are not offending?'" That points to the fact that there is no tag that says that a person will be an offender, that a person is marked as different in terms of antisocial in behaviour and will not integrate into society. A number of factors have come together. We need to recognise that there are many points at which we can intervene and ensure that a person does not go through degrading experiences or potentially degrading experiences and become hardened in those activities but, rather, is rehabilitated and becomes a useful and contributing member of society.

All members of Parliament should have this report on their shelves. It is not simply a document to be obtained from the library. When the subject of crime arises I hope that members of Parliament will not simply lapse into asking, "What sort of punishment can we devise to deter these people?", as I did at the outset. They should refer to the report, examine their consciences and—it has been quoted so often that it has almost become threadbare—remember that there but for the grace of God go I. We can do much more for these people than simply devise punishment in one form or another. Instead, we should be looking at the root causes of their problems and doing something about them. I would be presumptuous if I offered an opinion while a committee is still looking at the increase in prison population and the prospect of building a new facility to house the increasing female prison population.

Again I remind honourable members of my experience on the Standing Committee on Social Issues when we looked at the unenviable position of children whose parents are incarcerated—in 90 per cent of cases the mother is the parent incarcerated. When one looks at the offences for which they are imprisoned one wonders what on earth they are doing in prison and what sort of objects we have in mind when we simply lock them up. I am not criticising any of the processes—I know that in many cases exasperation has led to them eventually being committed to these institutions in the knowledge that if they are not so committed their drug habits will totally consume them. However, we must concentrate on the fact that if the money spent on maintaining them in these institutions was applied in support of the social structures around them they may well not re-offend in the future.

I suppose we all have images somewhere in the back of our minds of Dickensian times, and we rejoice that we live in a more enlightened time. Members of the Legislative Council are fortunate and privileged to have the benefit of honourable members who have served in the administration of law and whose thoughts have been distilled into this report. We as a society are much stronger and richer for having this report. I urge all honourable members to read, mark and inwardly digest its contents, and resolve that its recommendations will be the blueprint for dealing with potential offenders in the future, rather than not the time honoured but time dishonoured process of simply responding with ever-increasing scales of punishment.

The Hon. R. D. DYER [5.24 p.m.], in reply: I thank all honourable members who spoke in the debate on the first report of the Standing Committee on Law and Justice on the crime prevention through social support reference. I recognise the contributions made by the deputy chair of the committee, the Hon. J. F. Ryan, and my fellow committee member the Hon. J. Hatzistergos. I also acknowledge and thank all the other members who spoke in the debate, namely, the Hon. Helen Sham-Ho, the Hon. A. G. Corbett, the Hon. Jan Burnswoods—who

is the chair of our sister committee, the Standing Committee on Social Issues—the Hon. Patricia Forsythe, the Hon. Dr P. Wong, Reverend the Hon. F. J. Nile, Ms Lee Rhiannon, the Hon. Jennifer Gardiner and finally, but by no means least, the Hon. D. F. Moppett.

All those members were complimentary of the report and the recommendations contained therein. I am justified in saying that the report probably has some added authority, given that its recommendations are unanimous, without exception. I always believe that it is desirable if such a result can be achieved during the preparation of a parliamentary committee's report. I repeat the call I made last January following the release of the report: all governments of all political persuasions—not only this Government but all State and Federal governments—should increase their investment in early intervention and prevention to reduce the need for increased expenditure on more police and prisons in later years.

Recently I attended a lecture given in this Parliament by Dr Bruce Perry, a distinguished visitor from the United States of America, who showed quite graphically—even to the extent of showing slides—the effects of neglect and abuse on children. In particular, one slide showed the different brain sizes of very young children according to whether they have been nurtured or abused. That evidence is startling. I am afraid that once the damage has occurred it is close to being irreversible, to a large extent. So it is a difficult to overemphasise the importance of early intervention and prevention.

I thank the committee director, Mr David Blunt, the senior project officer, Mr Steven Reynolds, and the committee officer, Ms Philippa Gately, for their application and diligence in producing the report. I pay a similar compliment to the committee members for the way they approached the report and the effort they put into it. A second and final report relating to the reference on crime prevention through social support is currently being prepared by the committee's secretariat. I am led to believe that that is progressing very well, and I confidently predict that that report, when it becomes available during July-August, will be received as enthusiastically and positively as was the first report. With those few words, I take much pleasure in thanking honourable members for their contributions to the debate, and in commending this first report and the recommendations to the Government.

Motion agreed to.

STANDING COMMITTEE ON SOCIAL ISSUES

Report: Domestic Relationships: Issues For Reform, Inquiry into De Facto Relationships Legislation

Debate resumed from 11 April.

The Hon. JAN BURNSWOODS [5.30 p.m.]: I am pleased to commence debate today on the motion that this House take note of the report of the Standing Committee on Social Issues entitled "Domestic Relationships: Issues for Reform. Inquiry into De Facto Relationships Legislation", which was tabled in this House in December last year. The inquiry was first referred to the committee by the Attorney General in October 1998. The terms of reference asked the committee to inquire into and report on the rights and obligations of persons in interdependent personal relationships other than those defined in the De Facto Relationships Act 1984, and the extension of those rights and obligations as proposed in the De Facto Relationships Amendment Bill 1998, which was introduced in the Legislative Council in June 1998 by the Hon. Elisabeth Kirkby just prior to her retirement.

Honourable members will recall that the De Facto Relationships Act 1984 as it existed when the committee received its reference applied only to heterosexual relationships. Other types of domestic relationships, such as those between partners of the same sex, heterosexual couples who did not live together, and people in financial and emotionally interdependent relationships who may not live together or share a sexual relationship were not recognised under the Act. Similarly, relationships involving extended family or ties of kinship were also excluded. I would like to stress those points. In recent days we have heard about legislation to extend rights to people with the responsibility of carer. In speaking to this report I should like to make it plain that while some people have stressed that it focuses on relationships stemming from sexuality, it is important to note that it also deals largely with relationships stemming from carers' responsibilities.

The De Facto Relationships Amendment Bill 1998 would have amended the De Facto Relationships Act to give same-sex couples a range of new, mostly financial rights to match those already available to

heterosexual de facto couples. The bill would also have amended the Act to cover persons of the same sex who were in stable, committed and cohabiting relationships that were not based on sexuality. Debate on the De Facto Relationships Amendment Bill ranged from strong support to resolute opposition. In that context, in October 1998 the Attorney General referred the entire issue to the Standing Committee on Social Issues. The inquiry commenced immediately, and 138 submissions commenting on the rights of people in non-traditional domestic relationships were received.

The work of the committee was then interrupted when Parliament was prorogued for the March 1999 State election. Following the election and the reconstitution of the committee in May 1999, the Attorney General referred the matter back to the committee and the inquiry recommenced. However, it is important to note that at that point the task of the committee had changed markedly. The Government's Property (Relationships) Legislation Amendment Act was already being debated in the Parliament, and was in fact passed in June 1999. This new Act, which received bipartisan support, achieved many of the reforms contemplated by the De Facto Relationships Amendment Bill 1998.

Again I stress that in relation to some of the aspects of this entire issue—which is often regarded as controversial—the Property (Relationships) Legislation Amendment Act, with its extension of all kinds of rights to same-sex couples, was supported in this House and in the lower House by members of the Government, members of the Coalition universally, and also by the overwhelming majority of the crossbenchers. Indeed, this legislation had multipartisan support in both Houses.

In particular, the Property (Relationships) Legislation Amendment Act 1999 extended the provisions of the De Facto Relationships Act 1984 so that they applied to parties to relationships of a more widely defined class, including those in same-sex relationships and that very important group I have already mentioned, those in carer relationships. The new Act also amended other Acts whose provisions dealt with such rights, privileges, concessions or obligations so that those provisions would extend to apply to those in de facto relationships as redefined by the Property (Relationships) Legislation Amendment Act 1999. I congratulate the Attorney General and the Government on introducing that legislation and commencing the process of extending equitably to people in those broader relationships the sorts of rights in property, death and illness in industrial relations matters and so on that overwhelmingly this Parliament agreed were long overdue.

It is fair to say that prior to the passage of the new Act the key question before the committee was whether the De Facto Relationships Act should be supported. The new Act demonstrated, however, that the need to recognise these relationships in some form or another was beyond question. That need has now been accepted without question by all parties in this House. It was also accepted overwhelmingly in the submissions that the committee received. Some 114, or 83 per cent, of the initial 138 submissions received supported the recognition of same-sex relationships. About 10 per cent of the submissions were neutral or took up other issues. Only 12, or 7 per cent, of submissions were opposed to the concepts that had been recognised in the new legislation.

The new Act therefore changed the key issues before the committee into, as the committee framed the question, "whether the recognition given to non-traditional relationships was sufficient, and if not what other reforms were needed". In other words, the committee was concerned about how the recently introduced regime could be enhanced. The committee called for supplementary submissions seeking comment on the changes from all those who had made submissions on the earlier bill. The committee also arranged for a briefing and held two days of public hearings. Evidence was taken from a range of organisations, including lobby groups, unions, the Anti-Discrimination Board and a number of churches, as well as from a number of private individuals.

Before I move on to speak about some of the specific recommendations of the committee, I mention that, in accordance with the usual practice of the Parliament's three standing committees, the Government is preparing its official response to the committee's report. The deadline for that response is 7 June this year, that is, six months after the tabling of the report. I am advised that the Government is carefully considering the recommendations contained in the report and will indeed deliver its formal response by 7 June. At this stage I am not able to comment in detail on the specific responses to the recommendations made by the committee. I now turn to some of those recommendations.

With regard to antidiscrimination legislation, the committee found that there are a number of ways in which the new legislative regime introduced by the Property (Relationships) Legislation Amendment Act can be enhanced. A particular point of concern for many witnesses was the need to amend the Anti-Discrimination Act 1977 to prohibit discrimination against people on the basis of their domestic relationship. Whilst it is not permitted in New South Wales to discriminate against people on the grounds of what is called in the Act "marital status", that is traditional heterosexual marriage, it is still permissible to discriminate on the grounds that a person is in a same-sex or other non-traditional relationship.

The committee has recognised the incongruity of discriminatory treatment in anti-discrimination legislation by recommending that this anomaly be removed. Recognising the distinction between marriage and the non-traditional relationships covered by the new Act, the committee recommended that the name of the ground of discrimination in the Anti-Discrimination Act be changed from "marital status" to "relationship status". In that context, I particularly welcome the legislation that the Government has recently introduced to amend the Anti-Discrimination Act to include carers' responsibilities as a ground of discrimination and to encompass people who are living in same-sex relationships. The Anti-Discrimination Amendment (Carers' Responsibilities) Bill is currently being debated in this House.

A number of other recommendations of the committee relate to the Anti-Discrimination Act and will be considered by the Government at a later stage in the context of the Government's response to the Law Reform Commission's Report No. 92, "Review of the Anti-Discrimination Act", which was tabled in this House on 4 April this year. I very much welcome the way in which the Government has adopted the recommendations in the committee's report and, indeed, the multipartisan support for the Property (Relationships) Legislation Amendment Act, whose principles have been extended to the Anti-Discrimination Act to provide justice for those who are carers in a relationship.

The committee found similar anomalies in a range of New South Wales statutes. For example, some laws applying to employment benefits and entitlements provide rights for married couples or for couples who are in a heterosexual relationship that are different from those applying to people who are in other less traditional forms of emotionally close relationships. Many Acts impose obligations upon people in relationships. Some laws require disclosure of a partner's pecuniary interests but those provisions apply only to traditional relationships. Provided that appropriate safeguards are implemented to protect people from possible discrimination, the committee firmly considered that such obligations should have broader application. If people are to acquire more rights then, obviously, they should have more responsibilities and equity should apply.

These and other matters highlight the need for consistent treatment under New South Wales law of people who are living in relationships that are covered by the new Anti-Discrimination Act. As well as making recommendations to address specific anomalies, the committee has recommended that a review be undertaken of all New South Wales legislation to ensure that there is consistent application of the new definition of "de facto" in the Property (Relationships) Legislation Amendment Act. The committee also pointed out the need for a drafting instruction to be issued so that all legislation contains references to de facto relationship that are consistent with the Property (Relationships) Legislation Amendment Act. I am pleased that the Government is already taking action in relation to that matter. Legislation that was passed by this Parliament late last year with the support of all parties was the Retirement Villages Act which used the definitions of the Property (Relationships) Legislation Amendment Act to ensure that the kind of discrimination to which I have referred ceases to exist.

Time does not permit discussion during this debate of all the matters dealt with by the committee, but I will mention a couple of matters briefly. A number of submissions called for the registration of relationships in a way that has been introduced in some European countries and which had been suggested in an earlier bill presented by the honourable member for Bligh, Clover Moore, in the Legislative Assembly. The committee recognised that that there are arguments for and against such a measure but recommended against adopting any system of registration. The committee believes that an inquiry being undertaken by the Law Reform Commission into these matters should consider that matter as well.

The committee dealt with a number of issues related to the division of property when a relationship breaks down. Some matters are quite technical and require the expertise of the Law Reform Commission. Certainly, however, it is the case that there are a number of ways in which the Commonwealth Family Law Act 1975 is fairer than State legislation to partners, particularly those people—overwhelmingly women, of course—whose contribution to a relationship is essentially non-financial. That is an area that the committee has dealt with and made a number of recommendations upon. I urge the Government to pay close attention to those recommendations.

The committee dealt with the issue of children and, essentially, noted that when the Property (Relationships) Legislation Amendment Bill was debated in this House an amendment was carried which ensured that the issue of the adoption of a child by same-sex couples was specifically ruled out. That issue had not been part of the bill but, nevertheless, the amendment was carried and the committee has noted that. Essentially, the committee's recommendations in relation to children deal with the issue of adoption and child support. In relation to child support, the committee was very conscious of the fact that the needs of children

should be placed first. As a result of the Family Law Act and other State and Commonwealth legislation, there are certain ways in which the children of people who are living in non traditional relationships are disadvantaged and discriminated against, compared with the children of traditional relationships.

In taking the interests of children to the forefront, the committee recommended that the New South Wales Minister for Community Services approach her Federal counterpart to request that child support legislation be amended so that it applies to same-sex co-parents in the same way as it currently applies to opposite-sex parents and step parents. The other matter on which the committee focused particularly in relation to the role of the Government was superannuation. This is a much-vexed area containing numerous inequities and instances of unfairness in the treatment of people in different sorts of relationships. The committee took legal advice which is very complex. Essentially, while there are certain ways in which the New South Wales Parliament can act to try to deal with some of the inequities, it would be very difficult to do that because of the Commonwealth's overriding power in relation to superannuation.

In matters in respect of which the New South Wales Parliament could act, significant tax penalties would result against either or both the Government and the individual beneficiaries. In the light of that information, I recommend that honourable members read the chapter of the report that deals with superannuation. It contains a number of quite technical issues and discusses some areas in which several people, including Anthony Albanese, have attempted to achieve reform through the Federal Parliament but without success.

The committee made one recommendation in that chapter which is that the New South Wales Government approach the Commonwealth Government to urge that amendments be made to the Commonwealth's superannuation and taxation legislation to ensure that Australia has complied with its obligations under international human rights conventions. The committee was firmly of the opinion that discriminatory treatment exists for which there is no logical basis. Whereas the changes are needed very urgently, essentially they can only be successfully addressed by the Commonwealth Government. I hope that all honourable members in their different ways and through the different political parties represented in this House will call on their Federal colleagues, including the Prime Minister and members of the Federal Government, to amend superannuation legislation to overcome these anomalies.

I reiterate the point I made earlier, namely, that the New South Wales Law Reform Commission is currently conducting a review of some of the issues dealt with by the committee. The committee welcomes that review because the members of the committee realised during the inquiry that a number of the issues being dealt with were very legal and very technical, especially issues related to dispute resolution, the jurisdiction of the District Court, alternatives to litigation and a whole lot of other areas of law. To some extent members of the committee felt that those issues were beyond the committee so it is pleasing that the Law Reform Commission will be carrying out a review. The Law Reform Commission is currently accepting submissions on these issues and its report will be published in due course.

Clearly, in considering its response to our report, the Government will have in mind the fact that the Law Reform Commission inquiry is ongoing. A number of the recommendations made by the committee can be implemented without reference to the more technical areas that are being examined by the Law Reform Commission. As I said earlier, a number of the recommendations made by the committee are already being implemented.

I thank everyone who made submissions and appeared as witnesses. I particularly thank my fellow committee members for their contribution to this unanimous report. I thank the committee secretariat for their work and, in particular, Marie Swain from the Parliamentary Library, who was seconded to the committee to draft our final report. Many honourable members would remember that Marie earlier prepared background papers. We were delighted to be able to take advantage of her expertise. She worked tirelessly on the project, particularly given the need to finish it before we rose at the end of last year, and the report would not have been possible without her valuable contribution. I commend the report to the House.

Reverend the Hon. F. J. NILE [5.50 p.m.]: I will speak to the Legislative Council Standing Committee on Social Issues report 20, December 1999, headed, "Domestic Relationships: Issues for Reform, Inquiry into De Facto Relationships Legislation". Honourable members know that I have been concerned for some time about some of the proposals canvassed in this report and covered by some of its recommendations. I was actively involved in debate in this House in relation to previous bills and the process that was followed prior to this committee inquiry. They were: the Significant Personal Relationships Bill 1997 introduced in the lower

House by the honourable member for Bligh, Clover Moore; the De Facto Relationships Amendment Bill 1998 introduced in this House by the former leader of the Australian Democrats, the Hon. Elisabeth Kirkby, who has since retired; and the final bill passed by this Parliament last year, the Property (Relationships) Legislation Amendment Act.

Same-sex relationships normally apply to two homosexuals or two lesbians. However, I acknowledge it can also apply to two persons of the same sex who may not be in a sexual relationship. I am aware that such a relationship can occur in a number of circumstances as a choice between those persons. I have no criticism of people who decide to live together. For example, two women may become good friends whilst in a mission training college. They may then go away to a foreign land and, by virtue of their posting, finish up in the same village or town and spend many years living together in a missionary house with no suggestion of a lesbian relationship.

When I expressed my concerns in relation to previous bills some people considered that I was jumping at shadows and that there was nothing to worry about. They thought I should be progressive, that I should move along and give recognition to same-sex relationships and partners. I believe the Property (Relationships) Legislation Amendment Bill had a very deceptive action to redefine the word "spouse" to cover same-sex partners. Even though I do not agree with such relationships, it would be far more accurate to use the word "partnership" or "partners" than engage in an act of deception to change the meaning of "spouse".

Honourable members know that my opposition to these moves is not based solely on the initiative, but on what that initiative will lead to. The bottom line of my concern has always been that perhaps the Federal Parliament, which legislates matrimonial law, will be painted into a corner. The Parliament may have legal advice from the Australian Law Reform Commission to the effect that as we have advanced so far down the track by using the word "spouse" in respect of homosexual relationships between two women or two men, why not take one more little step and legalise same-sex marriages? I have again expressed concern because that has been the stated objective of the homosexual movement since the early 1970s. I have documents in which the movement lists every right of heterosexual couples and states that all those rights should also be available to homosexual couples. That list has always included marriage and the adoption of children.

If honourable members are shocked it is because they are not aware of some of the literature on this issue, particularly from the United States of America but also to a degree in Australia, that has been available since the mid-1970s. For the benefit of the chairman of the committee who is making sounds—not interjections—page 33 of her own committee report canvasses same-sex marriages. I am glad it is in the report because the committee was being honest.

The Hon. Jan Burnswoods: In what country? In New South Wales or in Australia? Be honest, tell us where!

Reverend the Hon. F. J. NILE: I will quote it. The committee was honest when it indicated that around the world various homosexual groups have been pushing this issue as hard as they can. I have said that occurred when the word "spouse" was introduced into the legislation. The report deals with unsuccessful attempts to recognise same-sex marriage. It mentions the three same-sex couples who in 1991 jointly sued for marriage in the Hawaiian Supreme Court. I am very much aware of this matter because the groups in Hawaii that were opposed to that have worked closely with me in Australia. The groups that are pushing for these radical changes to the law have a network around the world which includes Sydney, Oxford Street and some honourable members of this Parliament. A similar network of people who oppose these changes exists. I could spend hours tonight giving updates of reports on efforts to have same-sex marriages recognised in various countries and States.

I have supplied information and argument from our legal advice to some groups and we have been fairly successful in stopping those moves in the United States of America and Hawaii. A referendum has been passed approving a constitutional amendment giving the Hawaiian legislature the power to limit marriage to heterosexual couples. The same bills have now been passed in the United States Congress and Senate, and similar moves are occurring in other countries. I was very pleased when that referendum was passed. Perhaps Australia, in particular New South Wales, is the only place where that has not happened. People may be naive and think that it is not really necessary, but I believe it is important to get ahead of the problem if we can, and spell out a national policy so that we know where we stand.

Other North American States passed laws banning same-sex marriages and, as I said, the passage of the Federal Defense of Marriage Act there in 1996 denied recognition of same-sex marriages at the Federal level. I

am pleased that the committee included that material, because it confirms what I have been saying in this Parliament: that there are moves to bring about same-sex marriages. This Chamber and the other place must be very careful in dealing with this issue, otherwise we will find that some people will say, "We have no choice but to recognise same-sex marriages." I know that many honourable members have strong feelings about this issue. I believe that some members of the Labor Party actually feel more strongly about it than Opposition members of this House do, from my knowledge of their views gained over many years.

The Hon. Jan Burnswoods: No-one in this House has ever raised the issue of same-sex marriages, and you know that.

Reverend the Hon. F. J. NILE: I know that. I am not saying that they have.

The Hon. Jan Burnswoods: It is not an issue.

Reverend the Hon. F. J. NILE: It is an issue.

The Hon. Jan Burnswoods: You are making it up.

Reverend the Hon. F. J. NILE: The Property (Relationships) Legislation Amendment Bill was changed by an amendment that was sneaked through at the last minute, with the word "partner" changed to "spouse", recommending that the word "spouse" be used in all bills, including the bill now under debate, the First Home Owner Grant Bill, the carers bill and all other bills.

The Hon. Jan Burnswoods: The Commonwealth has responsibility for marriages. The State does not.

Reverend the Hon. F. J. NILE: That is right. But, if every State does what this Government is promoting and adopts this position, the Federal Government will be pushed into a position whereby it will feel it has no choice but to change the marriage Act. The Australian Democrats in the Federal arena would change that Act tomorrow if they could.

The Hon. Jan Burnswoods: Nobody in Australia has ever tried to do what you are saying.

Reverend the Hon. F. J. NILE: I have just said that they have not, but they will. Some day you will understand that and you will apologise and say that they have done it.

The Hon. Jan Burnswoods: Why don't you read the report?

Reverend the Hon. F. J. NILE: I have read the report, and I have just read from page 33 of it.

The Hon. Jan Burnswoods: That was about Hawaii.

Reverend the Hon. F. J. NILE: North American States and other places. We know that Australia follows very closely what happens in the United States of America. Initiatives in the United States used to turn up in Australian politics after about five years, but now they arrive probably six months later, or less. However, as the report indicates on page 32:

> Denmark has introduced laws so that registration carries the same legal consequences as marriage. Where Danish law refers to "marriage" or "spouse", such references automatically included registered partnerships and partners.

There is a very small difference between the definitions that I have just read and the definition of marriage. What is the real difference between the passages that I have just quoted from the report and what now applies in Denmark?

The Hon. D. F. Moppett: The definition of "marriage" under the Federal Act. That is the difference. It is absolutely crystal clear. It cannot be mistaken.

Reverend the Hon. F. J. NILE: I know it is, but I offer the prophetic view that if every State of Australia adopts this spouse definition, a future Federal Government, particularly a Labor government, will be very prone to changing the marriage Act. The honourable member needs to note that. If he feels that that affords some protection because it will never be changed, I think he is being a bit naive. Laws can be changed by the Federal Parliament. If there is enough pressure from the States to change the law, the Federal Government will

bring its law into line with the States' laws. I have no doubt about that. The only reason that the proposal is not as well projected as some people would like it to be is that there is a political decision not to wake up the angry, silent majority, who are very sleepy and do not know what is going on.

The political agitators adjust the volume of their campaigns so that they will not wake up the sleeping giant. They want the public to sleep away while they gradually make the changes step by step. When people wake up they will be shocked. In fact, when I tell people in churches now that this Parliament has changed the law to apply the word "spouse" to homosexual partners, they look at me in absolute shock. They say, "That cannot be. It could not happen."

The Hon. J. J. Della Bosca: Did you vote for it, Fred?

Reverend the Hon. F. J. NILE: I voted against it. I moved an amendment to delete that provision. Don't start me on that! The Minister may not realise what happened. We were debating the Property (Relationships) Legislation Amendment Bill, and at the last minute the Attorney General introduced 18 amendments that had not been circulated to those who had been given the original bill, so they could not comment on those amendments. I refer to the churches. Among the amendments was the new definition of spouse. So the definition slipped through. I do not know, but it may have slipped through the ALP Caucus and Cabinet.

The Hon. Jan Burnswoods: Nothing that you are saying is true. The bill went to the lower House after being debated in this House, and there it was debated at length and carried unanimously.

Reverend the Hon. F. J. NILE: I know that. But the new definition was sneaked through.

The Hon. Jan Burnswoods: What is this conspiracy theory that you are inventing? Did the whole of the lower House not note the 18 amendments?

Reverend the Hon. F. J. NILE: This was a major change to the law introduced in an amendment. If one were being honest, one would have included the amendments in the bill before it was circulated to the churches initially. But the churches never saw the new definition of spouse. That, to me, is deception.

The Hon. Jan Burnswoods: Did they ignore the debate in the lower House?

Reverend the Hon. F. J. NILE: It was too late when the bill was before the lower House! What can be done there? The Government has the numbers, and therefore the amendments go through. The honourable member is a realist, as I am. Once a bill gets to the lower House it is passed if that is the will of the Government.

The Hon. Jan Burnswoods: It was passed unanimously.

Reverend the Hon. F. J. NILE: That shows how naive the Opposition was. They now understand what happened. Watch some of the changes that occur in this Chamber.

[*Time for debate expired.*]

REAL PROPERTY AMENDMENT (COMPENSATION) BILL

Bill received and read a first time.

Motion by the Hon. J. J. Della Bosca agreed to:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

FIRST HOME OWNER GRANT BILL

In Committee

Consideration resumed from an earlier hour.

Part 2

The Hon. D. E. OLDFIELD [6.07 p.m.]: Before consideration was interrupted I was explaining how the GST is an abomination and that it is being forced upon all of us without mandate, contrary to the claim of

the Government. In fact, it is probably worth mentioning that the Federal Liberal-National Government was returned with one of its lowest votes in history, something in the order of 38.4 per cent of the primary vote for the Coalition. That shows that the Federal Government has no mandate whatsoever for what it is doing to the Australian people with this abomination called the GST. I can only hope that the GST haunts the Coalition to its political grave. I have to acknowledge that there is some—I repeat some—political intellect remaining in the Liberal Party, so I am sure it will do what it can to extricate itself, and it will call an election at whatever time is most advantageous to it.

From the point of few of the Australian people the Labor Party can find cold comfort from the fact that if the Liberal Party had not introduced the goods and services tax [GST], the Labor Party would have done so. There is not a lot for members of the Labor Party to crow about. It is difficult to assault a policy that a party will not overturn. It is difficult to go to an election against the Liberal Party when the Labor Party's policy is the same. But so many of the policies of the two major parties are the same.

I referred earlier to the fact that the Hon. Dr B. P. V. Pezzutti rushed into the Chamber to set straight the Hon. Helen Sham-Ho—something that members have to do on many occasions—as she misunderstood my amendments. The Hon. Helen Sham-Ho thought that somehow my amendments would preclude certain people from being able to obtain the $7,000 home grant that the Government is giving to those who are financially disadvantaged, especially those who are buying not overly expensive homes.

Unfortunately, the Hon. Helen Sham-Ho was wrong, because my amendments seek to preclude only those who will not eventually become citizens. Upon becoming Australian citizens and showing their commitment to this country, permanent residents who purchase a home will be able to obtain a grant in the form of a rebate. That is how my amendments read. I am grateful to the Hon. Dr B. P. V. Pezzutti for attempting to set straight the Hon. Helen Sham-Ho—a difficult thing for any honourable member to do at any time, and I do not believe that the task was easy today.

I take up a point made earlier by the Hon. J. F. Ryan. He alleged that I slurred Peter Debnam, the Opposition Treasury spokesman, who made a decision on behalf of the Coalition not to support these amendments. The Hon. J. F. Ryan alleged that I said that the conversation I had with Mr Debnam elicited the comment that Opposition members would not support these amendments on the basis that there was no gain in it for them and that the only thing that Opposition members would be interested in would be a credit for them, and not one which would be of benefit to the Australian people.

It is disturbing that I am now forced to nominate the two members of the Liberal Party, members of the Bradfield conference, who were present when that conversation took place. Mr and Mrs Woods are quite well-known to me and clearly they are well-known to Mr Debnam. That conversation took place last week outside the elevators on level 2 of Parliament House. It is a rather appalling state of affairs that Mr Debnam, through his agent in this Chamber, the Hon. J. F. Ryan, is attempting to deny that that conversation took place. He will forever be recorded in this Chamber as the man whose policy is based on credits for his party rather than benefits for the people he purports or pretends to represent, but does not.

The Hon. D. F. Moppett: Point of order: Mr Chairman, I imagine that in a second reading debate you would listen with some tolerance to the wide range of matters being addressed at present by the Hon. D. E. Oldfield. But in Committee his remarks are quite inappropriate. He should be directed to speak only to the amendments before the Committee.

The Hon. J. H. Jobling: To the point of order: I contend that the honourable member has transgressed the standing orders of this place. He is attempting to launch into a personal attack on a member of Parliament, albeit a member of the other place. If he wishes to do that he should do so by way of substantive motion; he should not attempt to do so in Committee. He should return to the subject matter before the Committee and he should be ruled out of order for attempting to attack a member of another place.

The Hon. D. E. OLDFIELD: To the point of order: I am merely responding to what has been said by the Hon. J. F. Ryan on behalf of his colleague. It was alleged that I made a slur against him for comments which have been denied. I am responding appropriately to what has been said. In any event, I have finalised my remarks in that respect.

The CHAIRMAN: Order! I uphold the point of order. The standing orders provide that in Committee members should confine themselves to the part of the bill that is then being considered, rather than speak generally as they might during a second reading debate.

The Hon. D. E. OLDFIELD: I refer now to the point made by the Hon. Dr P. Wong, who referred to what appears to be a spurious notion that investigations tended to uncover that people from other countries who become Australian citizens would have to give up their land and other valuable assets in those countries. He said that those people would be precluded from ownership of their property as a result of doing this terrible thing—taking out Australian citizenship.

I asked the Hon. Dr P. Wong to tell me which countries he was referring to but he would not do so. I contacted the staff of the honourable member and discovered that that was not advice that they had given him; apparently it was his own idea. I spoke to the Hon. Dr P. Wong in the course of the last hour, but he still does not wish to tell me which countries he was referring to. Apparently it is a secret of some sort.

According to the initial inquiries of the Parliamentary Library, in the course of which it also consulted the Federal Parliamentary Library, that is not the position in any country. If the Hon. Dr P. Wong happens to be watching or listening to this debate I challenge him to come into the Chamber and to place on record the names of the countries in which he claims people would lose various rights, in particular the ownership of land or other assets, if they become Australian citizens. The Parliamentary Library pointed out to me that paragraphs 1 and 2 of Article 17 of the Universal Declaration of Human Rights state:

1. Everyone has the right to own property alone as well as in association with others.

2. No-one shall be arbitrarily deprived of his property.

Perhaps the Hon. Dr P. Wong will come into the Chamber and tell us his secret. What countries are involved? Will he explain why it is such a secret and why he was not willing earlier to tell us the names of these countries? Finally, the intent of these amendments is not financially based in the sense of connecting the value of citizenship to money. The amendments simply state that there are some things that citizens should be entitled to, but which non citizens should not be entitled to.

In this country very few things are seen as being liberal. I am not referring to members of the Liberal Party who are seated behind me; I am referring to the word "liberal" in a more global sense. Members of the Liberal Party may be seen to be very liberal but in fact they are discriminating against people who are the true citizens of this country—a costly exercise. Unfortunately, the value of citizenship of this country is in decline. These simple amendments, which are not really discriminatory, will not disfavour anybody other than those who do not want to become Australian citizens.

Permanent residents who purchase a home will be able to receive this grant by way of rebate once they become Australian citizens. These amendments are not really discriminatory or unfair. I was pleased to hear other honourable members say that these amendments are not racist in any way, shape or form. It is simply a matter of recognising the value and nature of citizenship and what citizens can obtain by virtue of being citizens.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 5

Mr M. I. Jones
Mrs Nile
Mr Tingle
Tellers,
Revd Nile
Mr Oldfield

Noes, 26

Mr Breen	Mr Gay	Ms Rhiannon
Dr Chesterfield-Evans	Mr Harwin	Mr Ryan
Mr Cohen	Mr Hatzistergos	Mr Samios
Mr Corbett	Mr Johnson	Mrs Sham-Ho
Mr Della Bosca	Mr R. S. L. Jones	Mr Tsang
Mr Dyer	Mr Lynn	Dr Wong
Mrs Forsythe	Mr Manson	*Tellers,*
Mr Gallacher	Mr Moppett	Mr Jobling
Miss Gardiner	Dr Pezzutti	Mr Primrose

Question so resolved in the negative.

Amendments negatived.

Reverend the Hon. F. J. NILE [6.25 p.m.]: I move:

Page 7, clause 8. Insert after line 21:

De facto partner of a natural person means:

(a) if the person is a man—a woman with whom he is living as her husband on a bona fide domestic basis, or

(b) if the person is a woman—a man with whom she is living as his wife on a bona fide domestic basis.

This will not stop de facto partners from applying for this grant but it makes clear that de facto partners will be people of the opposite sex, in the same way as married partners—a man with a woman or a woman with a man.

The Hon. J. J. DELLA BOSCA (Special Minister of State, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [6.26 p.m.]: Reverend the Hon. F. J. Nile's amendment would have no practical effect and no function. In its current form it would be impracticable. The Committee has already voted on clauses in this bill that deal with the definition of applicants for GST compensation under the first home owner grant scheme. The amendment does not make sense, because it would not automatically alter the definition of "spouse " as agreed upon. The proposed insertion into clause 8 would be meaningless as there is an already agreed definition of "spouse".

If the amendment is agreed to, the bill will contain two conflicting references to de facto relationships. New South Wales recognises same-sex partners as spouse equivalents for many purposes. This means that previous home ownership by either would directly disqualify both from the grant. The application of the extended definition of "spouse" does not give members of these relationships any advantage over any other group.

Gilbert K. Chesterton used to say that the best way to test the truth of a proposition is to take it to its logical conclusion. The practical effect of Reverend the Hon. F. J. Nile's amendment, if it applied to other parts of the Act, would be to give an advantage to, and discriminate in favour of, gay couples. For example, if a heterosexual couple—a divorcee and a single person—marry and one has already been the recipient of a first home owner grant, the couple is disqualified from another grant. If a gay couple was not recognised as spouse equivalents they could, effectively, double dip on the first home owner scheme. I hate to put it to Reverend the Hon. F. J. Nile in this way, but I did not know he was so progressive. He actually wanted to introduce affirmative action for gay couples and give them an advantage over the rest of the community. For that and other reasons the Government is not prepared to accept Reverend the Hon. F. J. Nile's amendment.

The Hon. I. COHEN [6.29 p.m.]: The Minister's logic was interesting. I had not perceived that to be the case. On behalf of the Greens I understand Reverend the Hon. F. J. Nile's intention in this amendment, but we cannot and will not agree with it. The Greens will not accept any discriminatory situation, even if it is in the reverse, as the Minister said. The Greens do not accept the amendment.

Amendment negatived.

Part 2 agreed to.

Parts 3 and 4 agreed to.

Title agreed to.

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

[*The Deputy-President (The Hon. J. R. Johnson) left the chair at 6.33 p.m. The House resumed at 8.15p.m.*]

SUMMARY OFFENCES AMENDMENT BILL

In Committee

Clauses 1 to 3 agreed to.

Schedule 1

The Hon. D. J. GAY (Deputy Leader of the Opposition) [8.16 p.m.]: I move Opposition amendment No. 1:

Page 3, schedule 1, line 22. After "20 penalty units", insert "or imprisonment for 6 months".

I do not intend to add to the comments made by the Hon. C. J. S. Lynn in this regard during the second reading debate. In fact, I have heard enough members deliver second reading speeches during the Committee stage today to believe that the Hon. C. J. S. Lynn's comments were erudite and proper and would carry the case on its merits.

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [8.17 p.m.]: The Government opposes the amendment. The concept of the amendment is to provide a prison term for offenders in respect of a breach of new section 8 (2). As members would be aware, the Government's changes provide for an increase in the penalty for unthinking vandals who damage our war memorials and shrines. The Government is amending the Summary Offences Act to ensure that all memorials can be treated in the same manner as the Anzac Memorial in Hyde Park. The Anzac Memorial Act 1937 was amended last year in the wake of serious vandalism attacks on the Anzac Memorial in Hyde Park. The Act will specifically apply to the Anzac Memorial, because the Summary Offences Act is an everyday policing tool. The Summary Offences Act will now be used as an operational tool for police when dealing with vandalism offences on the Anzac Memorial, as well as all other war memorials.

The Opposition has raised an alleged inconsistency with proposed changes to section 8 and the current penalties provided for in section 10A of the Summary Offences Act. There is no such inconsistency. Let me reiterate the Government's essential intention in relation to the introduction of this bill. It is to ensure consistency when dealing with war memorials that are the subject of vandalism. War memorials are specific structures in our community which have a special significance that requires special protection.

The Government's proposed changes to the provisions of section 8 do not provide a prison penalty. However, they do permit an order for compensation to be made to rectify damage that has been done to a war memorial. They also permit police to regulate nuisance behaviour in or on, or where regulations permit, in the vicinity of a memorial. Section 10A of the Summary Offences Bill deals with prohibited damage or defacing of property by the use of a spray can and provides for a prison penalty. There is no statutory inconsistency because this section can be applied if such an action is taken against a war memorial. It is a section that has general application.

The Opposition argues that the damage done by an act to deface a war memorial may be significant and require a prison term. If a person maliciously damages a shrine, the Crimes Act will prevail. Section 195 of the Crimes Act provides for a penalty of five years and up to 10 years if explosives are used in the act of malicious damage. Last year the Opposition did not mind the prison terms for damages to the Anzac War Memorial when changes to the relevant legislation were debated. The Leader of the Opposition in the other place, the honourable member for Lane Cove, supported the Government's move wholeheartedly at that time. There was no caveat, quibble or criticism that the regime of penalties was insufficient. It could be argued that it is the stance taken by the Opposition that is inconsistent. Insertion of the provision suggested by the Opposition into this legislation would make the Government's changes which are aimed at consistency in effect inconsistent in relation to war memorials. The Government opposes the amendment and thinks that it is ill-conceived.

The Hon. I. COHEN [8.22 p.m.]: I support the Government's position which has been put so eruditely and clearly by the Attorney General, whose speech was an interesting learning experience for me. The Opposition's amendment imports the potential for imprisonment. As the Attorney General has pointed out, in common law and in other Acts there are remedies and penalties for malicious attacks on a war memorial, especially in relation to the use of explosives. However, a proposal for a term of imprisonment of six months by the Opposition indicates that the situation is getting totally out of hand. The amendment moved by the Deputy Leader of the Opposition seeks to exploit the sympathies of the community by overstating the penalty. The Opposition's amendment is completely inappropriate and the Greens oppose such draconian measures in the provisions of this legislation.

Reverend the Hon. F. J. NILE [8.24 p.m.]: During the second reading stage, I referred to the Opposition's amendment and mentioned the case involving a 16-year-old boy who had been charged with defacing the Anzac War Memorial. I indicated at that stage that such a person would not have a penalty of six months imprisonment imposed upon him. I note that the amendment moved by the Deputy Leader of the Opposition includes the words "or imprisonment", and clearly provides an option. The amendment does not in any way assert that a penalty of 20 penalty units must apply and a period of six months imprisonment, so I do not see the amendment being as outrageous as does the Attorney General.

During the Northern Territory mandatory sentencing debate the point was made that judges should be allowed to make a decision based on the evidence and impose an appropriate penalty. Arguments against

mandatory sentencing were based on the fact that the provisions tied the hands of a judge whereas this amendment merely provides another option. The provision may never be used. However, there may be a case where such a provision may be appropriate and a judge would make that decision. The term of imprisonment could range from one month to six months and I see nothing in the amendment which indicates that the term of imprisonment would automatically be six months. The amendment merely provides another option and gives judges the opportunity to exercise a discretion. Judges hear the evidence and they make the decision in relation to penalty. This amendment simply gives them an option which may never need to be used. I do not see any harm in the amendment.

The Hon. Dr A. CHESTERFIELD-EVANS [8.26 p.m.]: It is interesting that Reverend the Hon. F. J. Nile wants to introduce something that may never be used. If it never needs to be used, certainly it never needs to be introduced. It bothers me that the Opposition is basically always racking up penalties. There are too many people in gaol, yet members of Parliament keep racking up the penalties. During the second reading stage, I referred to alienating youth who may not have jobs and who may be quite depressed. When they see war memorials they perceive them as symbols of a world that excludes them whereas conservative people think war memorials are precious and are touchstones of our history. It is true that, as part of the feeling of alienation experienced by young people, they have damaged a monument, but if they are put in gaol for six months, they move from having a feeling of alienation to receiving proof of alienation and also learn new skills in crime.

The net effect of such a measure is that the community pays to train criminals. The righteous rhetoric which racks up penalties effectively means that we are happy to pay to train criminals but we are not happy to help alienated youth. That is the message that is being sent by members of this Parliament. Of course, the prisoner population inquiry is told by staff from the prisons department that nothing can be done about that problem. Prison staff take people into custody who have to be accommodated securely and properly, so the prisons department needs an ever-increasing budget. Magistrates say that there is nothing that they can do about the problem because they are bound by established precedents. Effectively, the power to do good in this society comes from this Parliament. Amendments that simply rack up penalties without examining the cause of the problem or whether penalties work in practice is just silly legislation which should be rejected out of hand.

Amendment negatived.

The Hon. Dr A. CHESTERFIELD-EVANS [8.28 p.m.]: I move Australian Democrats amendment No. 1:

No. 1 Page 3, schedule 1. Insert after line 30:

[2] Section 10A Damaging and defacing property by means of spray paint

Omit "or imprisonment for 6 months" from section 10A (1).

[3] Section 10A (2)

Omit "or sentencing the person to imprisonment".

[4] Section 10A (3)

Omit the subsection.

This amendment is the antithesis of the amendment that has just been discussed.

The Hon. D. J. Gay: It is a disgrace.

The Hon. Dr A. CHESTERFIELD-EVANS: I agree that there may be some inconsistency between section 10A and new section 8 (2) of this bill. As I stated earlier, the Opposition's solution is to include a custodial sentence in new section 8 (2) of the bill that is before the Committee. My approach by this amendment is to remove the custodial option from section 10A. In 1994 Madam President gave a very enlightened speech when addressing the Summary Offences and Other Legislation (Graffiti) Amendment Bill that introduced draconian penalties for spray can graffiti. She said:

> I live in the largest housing estate in Sydney, comprising 700 houses. I have one of the few private houses in the middle of the estate. We used to have a problem with graffiti, but delightful and interesting cartoons are now painted on all the big walls around Glebe. The children of the area do not deface those pictures because they like them. They have a greater empathy with the area. It now looks like a place where people like to live.

> There are different ways of treating graffiti. There are land rights murals all over Redfern which are not defaced by graffiti; the graffiti is in other areas. We do not have to gaol people for graffiti offences. Arthur Chesterfield-Evans is a candidate for the Australian Democrats who may gain a seat at the next election. He performed great public service for 10 years by defacing billboards advertising nicotine. Under this bill, he would have been gaoled because he intended to deface the billboards until advertising for smoking stopped …
>
> Graffiti can be defended. When there are sexist, racist, violent advertisements on billboards I will deface them. The Government can put me in gaol if it wants to. Another problem with the bill is the proposal to make an offence of the possession of a spray can for the purpose of graffiti. It will be an offence to carry a spray can and to look young and trendy, as though one might be a graffiti artist; it will not be illegal to carry a paint can and brush with the same intent. I know that the Government is a really modern, trendy, technocratic government but I have to inform its members that it is possible to do graffiti with a paint can and a brush.

I thought Reverend the Hon. F. J. Nile might have interjected because he interjected at that point in 1994 but I have been disappointed. I thought if I paused I might be lucky. The lesson, however, is that there are other, more effective ways to deal with crime than a stint in gaol. As honourable members know, gaol tends to make people worse rather than better, particularly if they start off somewhat alienated. My second amendment, which I will come to shortly, offers an alternative restitution option which could be used to discourage graffiti in lieu of the blunt and ineffective threat of gaol. I commend the amendment to the Committee.

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [8.32 p.m.]: The Government cannot support the amendment moved by the Hon. Dr A. Chesterfield-Evans. Honourable members have become aware during the course of this debate that section 10A of the Summary Offences Act is dedicated to offenders who cause damage by the use of spray cans. It is not specific to war memorials and shrines but has general application as a property offence. The section, of course, can apply to shrines and war memorials if an offender uses spray paint to cause significant damage. The amendment is opposed because the option of a gaol term is an option of last resort in the provision. However, the Government thinks it would send a strong signal that the community is intolerant of spray paint damage by repeat offenders.

Only repeat offenders may be considered for a prison penalty and then only if the court is of the view that the offence is so grave as to warrant a prison penalty. Section 10A (3) of the Summary Offences Act provides a safeguard that should satisfy the honourable member and this Committee that the provision cannot be misapplied by the courts. The section requires a court not to impose a prison penalty unless the offender has previously been convicted under this section or under section 10B—possession of spray paint with the intent to damage—on so many occasions that the court is satisfied that the person is a serious and persistent offender and is likely to commit such an offence again. That requirement was inserted by the then Labor Opposition by amendment to a Government bill in 1990. This section is not in any way inconsistent with the proposed changes to section 8 as outlined in the Government's response to the Opposition's proposed amendment.

The Hon. J. M. SAMIOS [8.34 p.m.]: The Opposition supports the Government's attitude for the reasons articulated by the Attorney General.

Reverend the Hon. F. J. NILE [8.34 p.m.]: The Christian Democratic Party supports the Government's position on this matter. I noted that the Hon. Dr A. Chesterfield-Evans said that these offences are justified if the people are unemployed. At that time I interjected and asked how many war memorial buildings were painted with graffiti during the Depression when we experienced the highest unemployment levels in Australia's history. People were virtually at starvation level and men had to leave their families and go into the bush to try to get some income to support their families. They did not smash buildings or war memorials. They did not put graffiti on buildings. It is an easy excuse for some people to say that people who apply graffiti are unemployed and that that justifies the action.

The fact that members of Parliament support a penalty option of imprisonment for six months does not necessarily mean they want to lock everyone up in gaol. I worked in the Wesley Mission with young people, many of whom were in trouble with the law—the so-called sharpies from Glebe—and I spent a lot of time at the Children's Court, in almost every case successfully arguing to get bonds for the young persons and prevent them from going to gaol. The Christian Democratic Party hopes that such a penalty will be used only in extreme cases.

The Hon. I. COHEN [8.36 p.m.]: I wonder whether in drawing in the Depression—which was a very different social milieu—there might also be some relevance in the fact that it was before the evolution of the spray can? We are dealing with a different society now with a different set of pressures and values. Regardless of whether it is better, it is a very different culture. The Hon. Dr A. Chesterfield-Evans said there is a certain degree of change in the community. As I have said in this House before, I am also a member of the billboard-

utilising graffitists against unhealthy products. In the past I have certainly sprayed tobacco billboards, an issue to which I have devoted a whole chapter in a book that I have written. It is sad when that type of youthful exuberance used for good purposes then runs amok and goes in the wrong direction—for example, against war memorials or other establishments.

The example of working with the youth of the community and directing their rather wild energies towards spraying billboards down on the beachfront, and a great deal of artwork in areas such as Redfern, transforms what could be a destructive process of rebellion by youths in the community to something productive. That is the formula that works. Establishing laws that provide a gaol sentence for the offence of using a spray can was an overreaction by the Government of the day in 1994, and the present Government continues to overreact by creating something that is too draconian for the type of offence and the general offender who is perpetrating that type of offence—that is, essentially young people.

The amendment of the Hon. Dr A. Chesterfield-Evans to omit the option of imprisonment is important. I look forward with interest to the amendment put forward by the Hon. D. E. Oldfield regarding the redirection of people towards community service sentences. That redirection is needed particularly in areas of crime perpetrated by young people. This amendment is appropriate to encourage redirection so that we can have alternative ways to deal with this type of vandalism in the community, which is so often done by young people who, when they mature, regret it. We do not want them involved in the penal processes in our society as a result of often foolish acts of youth. I support the amendment moved by the Hon. Dr A. Chesterfield-Evans.

Amendment negatived.

The Hon. Dr A. CHESTERFIELD-EVANS [8.40 p.m.]: I move my amendment No. 2:

No. 2 Page 4, schedule 1. Insert after line 19:

(5) The court may also, on the application of the convicted person and with the consent of the prosecutor, order that the person must, under the supervision of a person or class of persons designated by the court, personally repair or restore, or assist in the repair or restoration of, any damage caused by the action that resulted in the conviction, as an alternative to paying the whole or a specified part of an amount ordered to be paid by the person under subsection (1).

(6) Compliance with an order under subsection (5) is, to the extent indicated in the order, taken to be satisfaction of the order under subsection (1).

This amendment gives the court—on the application of the convicted person and with the consent of the prosecutor—power to substitute an order to restore and repair the damage done in lieu of an order for compensation. I must confess that I too become annoyed when a beautiful sandstone monument is sprayed with graffiti. I am much more protective of stonework than anything that is painted, mainly because of the time that it takes to fix the damage. If the person who did the damage was made to clean the structure or repair the damage to it, there would be in the offender not only a realisation that it is difficult to put the matter right but also an appreciation of the aesthetic appeal of the structure and of the material from which it is made.

A lot of this damage might not occur if the perpetrator knew that he or she would be fined and also ordered to pay compensation. It has been pointed out to me that a lot more effort is involved in cleaning off graffiti and making restitution than is involved in the payment of a fine—in which case someone else has to clean off the graffiti. This is in no way a lessening of the penalty; it is just making the punishment fit the crime. I note that it was Coalition policy in the lead-up to the 1995 elections to have offenders clean off graffiti. I commend the amendment to the Committee.

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [8.41 p.m.]: The Government can accept the amendment. The proposed provision is attached to the compensation provision of the bill. Therefore, a fine could still be levied and an order made under the proposed provisions, taking the threshold higher than a monetary fine or compensation threshold. I should like to remind honourable members that community service orders are available and that, under the youth conferencing scheme, enacted by this Government and by this Parliament, a diversionary program could make an order along the lines proposed by the honourable member. If an offender is unable to pay a fine, community service orders are now the accepted option in lieu of a prison term.

The proposed amendment is specific to the damaged shrine. Whilst that might be appropriate in some cases, in other cases the community might not wish the perpetrator to return to the particular shrine and would

prefer a general community service option. Then the youth conferencing scheme, where the offender falls within the category, is preferable. However, the Government notes the provision is on the application of the convicted person and that it provides for an option or a discretion, on the face of the bill. Accordingly, in all of the circumstances, it can accept the amendment.

The Hon. J. M. SAMIOS [8.42 p.m.]: The Opposition supports the Government's attitude in relation to this amendment. The reality is that there is a limit to the amount of a monetary penalty of, I think, $2,200. In fact the cost of repairing the damage may be greater than that amount. In the event of the court exercising its discretion to use the proposed amendment, great expense may be saved. For instance, the damage may be about $4,000. If the order sought, with the consent of the prosecutor, that the person, under the supervision of a person or class of persons, personally repair or restore or assist in the repair or restoration of any damage caused by the action that resulted in the conviction, that could mean the saving of a larger sum of money. Equally, the discretion is still with the court. That is an important point.

The Hon. I. COHEN [8.44 p.m.]: I support the amendment moved by the Hon. Dr A. Chesterfield-Evans. I am pleased that the Government and the Opposition support this position.

Reverend the Hon. F. J. Nile: As do the Christian Democrats.

The Hon. I. COHEN: It is wonderful that there is this rare unanimity of this Chamber on a measure that can benefit youth, be they wayward. It is wonderful that we can support a measure that has a practical result. The Greens and, I am sure, all honourable members would support any measure that would not only restore the structure that has been defaced but will assist in the rehabilitation of the individual offender, giving some relevance to the crime perpetrated—relevance in terms of cleaning up after themselves, which we would all regard as a basic lesson for people, particularly young people.

Reverend the Hon. F. J. Nile: As with tobacco noticeboards.

The Hon. I. COHEN: The issue of tobacco noticeboards was a little different, in that it was part of a political campaign. Many political campaigns, though they may be unacceptable to many, clearly are motivated by opposition to what may be seen as acceptable according to the existing standards of a society, such as morally inappropriate types of advertising. I think history has judged that that type of campaigning was appropriate. However, we see as a spin-off of those types of campaigns the actions of young people who will graffiti in an aimless manner, using what might be considered by a significant number of people in society as inappropriate places. To hear that various parties in this Chamber agree that we need to provide for appropriate compensation to society by a perpetrator is most heartening. The Greens support the amendment moved by the Hon. Dr A. Chesterfield-Evans.

Reverend the Hon. F. J. NILE [8.46 p.m.]: The point of the interjection was: Would the Hon. I. Cohen have actually cleaned off the graffiti or slogans written on the tobacco noticeboards if he had been ordered to do so by a court?

The Hon. I. Cohen: On principle, I would not.

Reverend the Hon. F. J. NILE: That is the very point I was making. There is a good principle to the amendment. In the United States of America there has been a move in this direction. The amendment uses the words "repair or restoration". Restorative justice is an area that we have not adequately considered for our judicial system. Maybe this is a small step in bringing that point to the fore. Perhaps we should focus our minds on whether the principle can be applied to other areas. We support the amendment.

Amendment agreed to.

Schedule 1 as amended agreed to.

Title agreed to.

Bill reported from Committee with an amendment and passed through remaining stages.

BILL RETURNED

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

Coal and Oil Shale Mine Workers (Superannuation) Amendment (1999 Superannuation Agreement) Bill

LEGAL PROFESSION AMENDMENT (MORTGAGE PRACTICES) BILL

Second Reading

Debate resumed from 3 May.

The Hon. J. M. SAMIOS [8.51 p.m.]: The purpose of this bill is to regulate the mortgage practice scheme where a solicitor arranges for funds to be lent to a client by another person secured by a mortgage. In light of changes to the Federal Corporations Law and the policies of the Australian Securities and Investments Commission [ASIC], the bill also allows solicitors to deposit payments for costs in workers compensation cases directly into their office accounts rather than into a trust account as the money is paid by WorkCover and not by the client.

The bill further repeals the Legal Profession Amendment (Solicitors' Mortgage Practices) Act 1998, which honourable members no doubt remember was not proclaimed. By way of background, mortgage practices have traditionally been conducted by solicitors as a service to clients, particularly in rural areas where there is not a wide range of investment services. However, in recent years, a number of clients of solicitors who have invested funds on their behalf have suffered significant losses.

This bill will prevent claims from being made on the solicitors' Fidelity Fund by requiring solicitors who engage in mortgage practices to hold a separate policy of fidelity insurance. It will also require solicitors to declare any interest in a managed investment fund to a client. The bill will enhance the disciplined conduct of mortgage practices in that it provides greater protection to clients by establishing a regulatory framework supervised by the Law Society clearly setting out the obligations of clients and solicitors. The Opposition does not oppose the bill.

The Hon. R. D. DYER [8.53 p.m.]: I speak in support of the Legal Profession Amendment (Mortgage Practices) Bill. The primary purpose of the legislation is to revise the uncommenced amendments to the Legal Profession Act 1987 dealing with solicitors' mortgage practices in response to the revised regulatory scheme adopted by the Australian Securities and Investment Commission, commonly known as ASIC.

The Minister, in his second reading speech, mentioned that a relatively small number of solicitors conduct mortgage practices. That may well be the case now. However, if I go back 20 years to when I was last practising, that certainly would not have been the case. It was commonly the case then that solicitors, as part of their practice, would advance moneys on behalf of clients on the security of a first mortgage over real estate. In fact, when I was a solicitor assisting the senior partner at Sly and Russell, as that firm was then known, because of my conveyancing expertise, if I could put it that way as modestly as I can, I was placed in charge of the mortgage practice of that firm.

Partners and employed solicitors used to come in to see me and they would make a comment such as, "I understand that you are the man with the money." They would ask for X thousands of dollars usually for one, two or three years—a fairly short term—at a specified interest rate, and I could tell them whether I had the funds available for the term and at the interest rate that they specified.

The Hon. J. M. Samios: It was not just for rural clients. It involved a lot of city people.

The Hon. R. D. DYER: It had a much more general application than just for rural clients. Many people who for one reason or another were not able to raise funds through more traditional sources would approach a solicitor and the funding would be advanced on a fixed-term basis. It was convenient for people in the sense that, although it might not strictly be termed bridging finance, it fulfilled that role in some cases. People would obtain the finance until they were in a position to get more permanent finance at a lower interest rate. At Sly and Russell, the firm that I mentioned earlier, which was a large, commercial firm, the practice was a conservative one.

The Hon. J. M. Samios: It was at the corner of Pitt and Hunter streets, was it not?

The Hon. R. D. DYER: It was located on the seventeenth floor, among others, of the ANZ Bank building at the corner of Pitt and Hunter Streets. I was on the seventeenth floor. It certainly was the practice at Sly and Russell to have a conservative standard for the proportion of the value of the real estate, which was the security for the loan, that could be advanced. My recollection is that that firm's practice was not to advance greater than 60 per cent of an independent valuation of the real estate in question. That was a prudent lending policy and there was never any trouble of any sort.

However, it has to be said that, over the years, some solicitors have not done the right thing. Defalcations have occurred. In some cases, when the clients of some solicitors believed that funds were being advanced on the security of a first mortgage over real estate, those funds have, in fact, been advanced on some speculative or less secure basis. On some occasions the result has been that funds have been lost and the client has found out, to his or her detriment, the true position; namely, that the security for the loan simply did not exist. That sort of circumstance has given rise to the need for legislation such as this. The brief background to the legislation, apart from what I have said, that is, that some solicitors have allowed funds to be lost, is that since 1982 ASIC has provided an exemption from compliance with the Corporations Law for mortgage schemes operated by solicitors, though such investment transactions would, in the normal course, ordinarily attract the requirements of the Corporations Law.

In 1998 the Attorney General, the Hon. J. W. Shaw, moved amendments to the Legal Profession Act 1987 to implement some enhanced supervision of solicitors' mortgage practices. Those amendments were included in the Legal Profession Amendment (Solicitors' Mortgage Practices) Act 1998. However, that legislation has not been commenced as ASIC indicated at the time that legislation was passed that it intended to review the basis and extent of the exemption it had previously provided to solicitors' mortgage practices. The revised policy of ASIC on the regulation of solicitors' mortgage practices was finalised only on 4 November 1999.

That revised policy restricts the exemption for solicitors' mortgage practices to which I referred a short time ago to practices which are below a monetary limit of $5 million and do not exhibit other indicia of risk such as, for example, public advertising for development schemes. All schemes other than those I have mentioned would need to comply with the Corporations Law, and therefore will fall outside the scope of State-based regulations.

The result of what I have said is that the un-commenced 1998 provisions need to be reviewed to take account of the proposed distinctions between smaller practices that are subject to State-based regulation and larger solicitors' mortgage practices that fall within the ambit of ASIC supervision. These amendments will provide for the establishment of a regulatory regime for solicitors' mortgage practices falling within the terms of the revised limited exemption for State-supervised schemes proposed by ASIC. That regime is based on that proposed by the 1998 legislation, that is, the un-commenced legislation. Further, the amendments make it clear that solicitors who are directly or indirectly involved in the conduct of a mortgage practice scheme subject to full ASIC regulation under the managed investment provisions of the Corporations Law do not do so as part of their legal practice.

The Hon. J. M. Samios: They are deemed not to do so.

The Hon. R. D. DYER: They are deemed not to do so. That is a brief account of the need for, and the background to, this legislation. The legislation is necessary and appropriate in the public interest. I bemoan the fact that some solicitors have not done the right thing historically. As I said at the outset, that was a ready source of finance for people. It was a very common facility and in most cases, of course, solicitors did the right thing and there was no problem. However, as in many areas of life some people do the wrong thing and spoil it for others. Hence the need for the regulatory regime that ASIC runs for amounts above $5 million, and this legislation for amounts below $5 million. I support the bill.

The Hon. P. J. BREEN [9.02 p.m.]: I am pleased to support the Legal Profession Amendment (Mortgage Practices) Bill, although I must say at the outset I think the limit is now up to $7.5 million.

The Hon. R. D. Dyer: No, it is $5 million.

The Hon P. J. BREEN: I could be mistaken about that. So, the bill limit is $5 million?

The Hon. J. M. Samios: It is $5 million, and for other legislation it is above $5 million.

The Hon P. J. BREEN: The bill is necessary because of a large number of claims on the Solicitors Fidelity Fund, which is the fund set up to compensate victims of dishonest and fraudulent solicitors. The bill draws a line between mortgage schemes that must comply with the Corporations Law and mortgage schemes that will be supervised by the Law Society. The benchmark, as I am advised, is $5 million. The figure needs to be capped in some way. It would defeat the purpose of the legislation if the figure were to rise, and I seek some assurance from the Attorney General about that.

In effect, the Law Society is given an exemption from the operation of the Corporations Law, and that exemption needs to be acknowledged and limited. The fund operated by the Law Society has a poor public image. Over the years many people have been disappointed about their entitlement when their solicitors have stolen or squandered their money. For example, in the Tietyens case, investors lost around $50 million in a solicitor's contributory mortgage scheme, and last year they were offered just 50¢ in the dollar. I understand negotiations are continuing but, as we all know, justice delayed is justice denied.

One of the problems with the solicitors Fidelity Fund is that the money is actually interest earned on clients' funds and many people, including the Auditor-General, have said that the money rightfully belongs to the clients. With modern technology, why cannot a computer be used to work out which clients are entitled to a share of the money and pay it to them? This would remove much of the opprobrium presently attaching to the funds in the hands of the Law Society.

Perhaps the most important feature of the bill is that it requires solicitors to take out fidelity insurance to cover their clients' mortgages if the solicitors run off with the funds. This is a great step forward. It means that decisions about payment from the Fidelity Fund, at least in the case of money lost on mortgages, will be taken out of the hands of the Law Society and given to the insurance industry. The likely insurer in this scheme is HIH Casualty and General Insurance Limited, the existing insurer for solicitors professional indemnity insurance.

The bill transfers the risk of loss from lawyers to the commercial insurance market. It offers a strong balance sheet for payment of claims and, in that sense, is an important consumer protection measure. Payment to law consumers will be guaranteed under the terms of the insurance policy instead of the present scheme, which is entirely discretionary, in the hands of the Fidelity Fund managers. I am pleased to say that the Law Society is presently considering a proposal to completely replace the Fidelity Fund with an overall insurance scheme. Importantly, the premium payable by solicitors not involved in mortgage lending practices would be virtually the same as their annual payments to the Fidelity Fund, which are about $650 per year.

Another benefit to law consumers with fidelity insurance is that they are not put through the heartache of proving their case, as they must do in the case of professional indemnity or negligence insurance. There is no need to prove any breach of duty on the part of a solicitor. Fidelity insurance covers dishonest acts such as larceny, fraud or deception, and therefore it is much easier to administer than professional indemnity insurance. Of some concern—and I became aware of this only this afternoon—is the proposal to limit any one claim to $2.5 million, and again I ask the Attorney for an assurance that this proposal will not be used to shortchange claimants. Actuarial experts say that the $2.5 million limit on claims will not disadvantage law consumers, but I understand that the calculations were done on the basis of the $5 million ceiling as contemplated by the legislation. If that ceiling were to rise, clearly that limit of $2.5 million per claim would be quite unjust.

My concerns about conflicts of interest at the Law Society, which I have expressed on other occasions in this House, are in no way diminished by my support for this bill. Indeed, the point I made earlier needs to be emphasised: this bill takes the risk of lending money through solicitors away from the Law Society and places it firmly in the hands of the commercial insurers market. Over the years the Law Society has made repeated false and misleading statements in advertising material to the effect that money invested in solicitors' mortgage schemes is protected by the Fidelity Fund.

At best, the statements were only partly true. Annual earnings on solicitors' trust account funds amount to around $21 million, and this funds the Fidelity Fund and the complaints and disciplinary system against solicitors. The Fidelity Fund has always paid what it can afford to compensate clients for money lost by defaulting solicitors, and, in effect, clients have been asked to whistle for the balance. Needless to say, nothing to that effect has ever appeared in advertisements for solicitors' mortgage funds—not even in the fine print. I therefore commend this legislation to the House. I compliment the Attorney General on this important first step towards regulating solicitors' mortgage schemes.

I conclude by referring to Monday night's *Four Corners* program. The title of the program was "Safe as Houses". ABC reporter Chris Masters said that all regulatory authorities have failed to protect consumers investing in solicitors' mortgage schemes. He gave some dramatic examples from Western Australia and Queensland of the extent of loss that people have suffered in these unregulated contributory mortgage schemes. Even when they are regulated, the regulatory authority is unanswerable or does not seem to recognise important boundaries. This bill is a significant step towards offering New South Wales consumers that protection, and I hope it receives the support of the House.

The Hon. Dr A. CHESTERFIELD-EVANS [9.09 p.m.]: The Australian Democrats support this bill. We believe that the public needs to be protected against the careless work of professionals by indemnity arrangements. Obviously this bill is a step in the right direction. I saw the Chris Masters program "Safe as Houses" on *Four Corners* on Monday evening. I noted that Queensland, Western Australia and New South Wales were said to have the least protection for solicitors who had arranged mortgages but who had been somewhat dilatory in securing their clients' funds.

People who had handed over money—admittedly, it was a Western Australian example—said they were under the impression that the funds were being supervised by their solicitor and going into a trust fund, from which they would only be paid according to strict guidelines and as real progress was made. Of course, that would have given them reasonable security, but the funds had simply gone straight into the developer's pocket and straight out of the developer's pocket to pay debts that the developer had incurred before he had even started to develop the property on which the clients were supposedly lending.

In fact, the scheme was underfunded by definition in that previous debts had to be cleared before the current development got under way. The solicitors were parties to those transactions and the clients were totally unaware of them. A fidelity insurance scheme will address that problem. Although I confess I am not an expert on the actuarial aspects, this bill seems to be a significant step in the right direction, and the Government must be congratulated on introducing it. The Australian Democrats support the bill.

The Hon. R. S. L. JONES [9.12 p.m.]: This bill introduces a new scheme for the regulation of mortgage business conducted by solicitors. Typically, in this type of business a solicitor acts for a number of clients who contribute their funds to invest in property owned by another person and secured by a mortgage. These transactions have involved some risk and have in certain circumstances resulted in losses to clients, who in turn have claimed against the solicitors Fidelity Fund.

The original purpose of the Fidelity Fund was to compensate clients who suffered loss as a result of the dishonest or fraudulent conduct of solicitors, not to compensate for losses relating to investment in property. Although solicitors' mortgage practices fell within the schemes governed by the Corporations Law, the Australian Securities and Investment Commission [ASIC] exercised its power to exempt solicitors from the need to comply with the Corporations Law provisions. ASIC has reviewed its exemption policy and has decided to supervise certain categories of schemes, leaving the remainder to be monitored by the Law Society.

The categories of schemes supervised by ASIC are those carrying higher risk, namely, schemes involving more than $5 million, schemes that are publicly advertised, schemes that have a large number of investors and schemes that relate to development. ASIC has said that it will not supervise schemes falling outside the above higher risk categories provided they are supervised by the Law Society. The purpose of the bill is to set out arrangements for supervision of these smaller schemes by the Law Society. The bill provides that mortgage practices are not part of the practice of a solicitor, and it is a requirement that solicitors inform clients of this, as well as telling them that the transaction is not covered by the solicitors' Fidelity Fund. However, clients will continue to receive protection from losses as a result of dishonest or fraudulent acts through a requirement for a solicitor to hold a fidelity insurance policy to cover his mortgage business, in terms approved by the Attorney General.

My adviser, Barry Davis, has talked to the Law Society, which, as the Attorney knows, supports the bill. The Law Society said that of 3,000 firms of solicitors, about 270 have mortgage practices but only about 150 of them could be described as substantial, and only six are very large. The bill was triggered by the loss of about $50 million by an Albury firm. While the fund is obliged to pay only $1 million per solicitor, it will in fact pay the entire $50 million. So far, the fund has paid 50¢ in the dollar, and it will pay the full amount eventually. The fund did not have to do that, but it is doing so nonetheless. So it is a good scheme. When I first looked at the legislation and received the briefing documents I was concerned, but now I am quite happy to support the bill.

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [9.14 p.m.], in reply: I thank honourable members for their contributions to the debate and their support for the bill. I assure honourable members that there is no intention to alter the existing arrangement whereby larger schemes, that is schemes over $5 million, will be subject to the administration of the Australian Securities and Investment Commission [ASIC] under the Corporations Law. For a considerable time now I have had discussions with ASIC about that superintendence, and this bill is intended to address smaller practices that do not fall within the current superintendence of ASIC.

One point I shall address is whether clients of solicitors who are involved in mortgage practices would in some way be disadvantaged by being denied access to the solicitors' Fidelity Fund. My response is that the bill will require solicitors who operate mortgage schemes supervised by the Law Society to hold fidelity insurance. The insurance policy must ensure that clients have redress in the event that moneys are misappropriated. Safeguards have been included in the bill to require solicitors who conduct mortgage practices regulated by the Law Society to inform clients that they cannot claim on the Fidelity Fund and to inform them of the details of the fidelity insurance arrangements. If a solicitor does not comply with that requirement, that would constitute professional misconduct. So there are real protections for clients and real sanctions in the event of breaches of the provisions of the legislation. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

MOTOR ACCIDENTS COMPENSATION AMENDMENT (MEDICAL ASSESSMENTS) BILL

Second Reading

Debate resumed from 3 May.

The Hon. J. M. SAMIOS [9.17 p.m.]: The purpose of this bill is to clarify section 61 of the Motor Accidents Compensation Act 1999. In doing so replaces unproclaimed subsections (4) to (7) of section 61 with new subsections (4) to (9). Section 61 of the Motor Accidents Compensation Act 1999 provides for medical assessments for motor accident compensation, and deals with the status of medical assessments and certificates issued by medical assessors which are used to determine compensation.

Under section 61 a court could reject a certificate of assessment of the degree of permanent impairment—greater or less than 10 per cent. If rejected, the court could either refer the matter for reassessment or substitute a determination of its own. The bill clarifies the original intention of the Hon. Helen Sham-Ho's amendment that, in seeking to protect the rights of a victim, the court should have the power to determine whether a certificate is procedurally fair. Furthermore, the bill reduces the possibility of courts having an unfettered right to reject a medical certificate and substitute its own assessment, by limiting the grounds on which this may be done. The Coalition did not oppose the Motor Accidents Compensation Bill 1999 but it highlighted a number of areas of concern. One such area was the application of the 10 per cent ruling. In the circumstances the Opposition does not oppose the legislation.

The Hon. Dr A. CHESTERFIELD-EVANS [9.20 p.m.]: The Motor Accidents Compensation Amendment (Medical Assessments) Bill replaces an amendment moved by the Hon. Helen Sham-Ho to the 1999 bill to ensure that a mechanism for appeal against medical decisions is included in the Motor Accidents Compensation Act. I must confess I was angry that such legislation has not been proclaimed. In a sense, this bill is an alternative to the proclamation of an amendment that was debated and passed in this House previously, which I think is a bad situation. I do not say that it is a bad precedent, because it happens all the time. It is extremely bad behaviour for a government—that is, the party that achieves the most seats in the lower House after an election, if that is defined as the government, although it would be nice to have the Parliament defined as the government—

The Hon. D. F. Moppett: It would be misleading.

The Hon. Dr A. CHESTERFIELD-EVANS: That is true. It is not a precedent, in that a lot of legislation is not proclaimed. I believe that that is a very bad situation. Indeed, people I have spoken to in the upper ranks of the legal profession were absolutely unaware that large amounts of legislation remain

unproclaimed. Many people still believe that the function of the Governor in proclaiming legislation is almost a ceremonial function once Parliament has debated legislation and made a decision. This legislation is living proof that unproclaimed legislation can be changed.

Having said that, the Hon. Helen Sham-Ho has indicated that the legislation addresses the problem that she addressed in her amendment, and on that basis she is reasonably satisfied with it. For my part, I believe that the motor accidents compensation legislation is flawed in the way it assesses injury and determines compensation, in that it relies on a medical opinion based on an artificial form that I believe will not accurately reflect the degree of pain and suffering and disability suffered by victims of motor accidents. It is all very well to say that it measures impairment and that that is a different thing from disability. The difference is not semantic, it is quite real. However, it tends to become the same thing in terms of the amount of money a person is awarded. A person may be told, "Yes, we will acknowledge that this is a measure of your impairment and not your disability, but in fact we only pay you for your impairment", which of course is not helpful.

I have heard the example given that if one removes one's glasses one is visually impaired and that may be a great problem, but if one puts one's glasses on, one is not disabled. In other words, the practical effect of an impairment depends on the degree of disability it causes. This distinction is being lost in the impairment guidelines and the compensation relating to them. As I have said, I believe that the model is flawed, although I believe that this bill corrects an anomaly within the frame of reference, consistent with the Motor Accidents Compensation Act and the amendment of the Hon. Helen Sham-Ho that was accepted by this Parliament.

Reverend the Hon. F. J. NILE [9.24 p.m.]: The Christian Democratic Party is pleased to support the Motor Accidents Compensation Amendment (Medical Assessments) Bill. As honourable members would be aware, the bill resulted from concerns expressed about the amendment moved by the Hon. Helen Sham-Ho, which perhaps was open to different interpretations. I accept that normally all parts of bills are proclaimed. I accept also, however, that given that the purpose of the legislation was to reduce green slip premiums, if the amendment indirectly left insurance companies with a degree of uncertainty, they may increase premiums to try to cover what they thought is another interpretation. I accept that on this occasion the Government was justified in delaying the legislation while it was further reviewed, and that the Government received legal advice which resulted in the introduction of this bill.

The Motor Accidents Compensation Act 1999 provides for medical assessment for compensation for injuries sustained in a motor vehicle accident. It sets out the status of the medical assessments and provides for certificates to be issued as to whether the degree of permanent impairment of the injured person is greater than 10 per cent; whether any treatment already provided to the injured person was reasonable and necessary in the circumstances; and whether an injury has stabilised. These certificates are conclusive evidence in any court proceedings or any assessment by a claims assessor in respect of the relevant claim. A court may reject a certificate if the court determines that the circumstances of the assessment constituted a denial of procedural fairness to a party to the assessment and if the court is satisfied that the admission of the certificate would cause substantial injustice to that party.

By way of an amendment moved by the Hon. Helen Sham-Ho, proposed section 61 (6) provided that a court could substitute its own decision as to the degree of impairment. As honourable members heard during briefing sessions, the Hon. Helen Sham-Ho indicated that it was her intention that the court could only do this when a certificate had been rejected on the grounds set out above, and on that basis the Government supported the amendment. However, following passage of the legislation it became clear that the section was open to different interpretations, and for that reason proposed section 61 (6) was not commenced. In a subsequent motion concerning the non-proclamation of the section, an undertaking was provided to the House that the section would be amended as soon as possible to clarify its operation in accordance with the intention of the Hon. Helen Sham-Ho. That has now occurred with the introduction of this bill.

The Law Society followed that debate very closely. Of course, the legal profession is deeply involved in motor accidents, on both sides of the case, so to speak, in representing both plaintiffs and insurance companies. Mark Richardson, the Chief Executive Officer of the Law Society, wrote to me on 3 May as follows:

> I refer to my letter to you yesterday regarding the *Motor Accidents Compensation Amendment (Medical Assessments) Bill* 2000.
>
> Counsel's advice on the Bill's legal effect if passed, which was still awaited when my earlier letter was sent, has now been received. This advice, a copy of which is enclosed for your information, confirms the Society's preliminary view that the Bill is consistent with the intent of the "section 61(6)" amendment originally proposed by the Hon. Helen Sham-Ho MLC.

I seek leave to incorporate in *Hansard* legal advice provided to the Law Society which supports the bill and states that it is an accurate representation of what this House was seeking to do through that amendment.

Leave granted.

ADVICE ON EFFECT OF MOTOR ACCIDENTS COMPENSATION AMENDMENT (MEDICAL ASSESSMENTS) BILL 2000

On 8 October 1999, I advised the Society as to the effect of section 61 (6) of the Motor Accidents Compensation Act, 1999 ("the Act"). That sub-section was not proclaimed and has not come into operation. Instead, the government has introduced the Motor Accidents Compensation Amendment (Medical Assessments) Bill 2000 ("the Bill").

The Bill replaces section 61 (4) – (7) of the Act and inserts a new section 61 (8). The Explanatory Note which accompanies the Bill states of the following objective:

> "The object of this Bill is to amend the Motor Accidents Compensation Act 1999 so as to make it clear that a court does not have an unfettered power to reject a certificate given by a medical assessor under the Act as to whether the degree of permanent impairment of an injured person is greater than 10% and substitute its own determination as to the degree of permanent impairment of the injured person. A court will be able to substitute its own determination only if there has been a denial of procedural fairness in the issue of the certificate and the court is satisfied that admission of the certificate as to that matter would cause a substantial injustice to a party to the proceedings."

In my opinion, section 61 as amended by the Bill operates in the following way:

1. A certificate given by a medical assessor must be as to the matters referred for assessment: (section 61 (1))

2. A certificate as to any of the three matters referred to in section 61 (2), including whether the degree of permanent impairment of the injured person is greater than 10%, is conclusive evidence: (section 61 (2))

3. A certificate as to any other matter is evidence only: (section 61 (3))

4. The court may reject a certificate as to all or any of the matters certified in it on the grounds of denial of procedural fairness but only if the court is satisfied that its admission as to the matter or matters concerned would cause substantial injustice: (section 61 (4))

5. Where the court rejects a certificate as to the matter referred to in section 61 (2) (b) or (c), it must refer that matter again for assessment and cannot substitute its own determination: (section 61 (5) and (7))

6. Where the court rejects a certificate as to the matter referred to in section 61 (2) (a) i.e. whether the degree of permanent impairment of the injured person is greater than 10%, it may, if it considers it appropriate, substitute its own determination as to the degree of permanent impairment assessed in accordance with section 133: (section 61 (6))

7. Where the court rejects a certificate as to the matter referred to in section 61 (2) (a) i.e. whether the degree of permanent impairment of the injured person is greater than 10%, and does not consider it appropriate to substitute its own determination, it must refer that matter again for assessment: (section 61 (5) and (6)).

8. Where the court rejects a certificate as to a matter which is not conclusive evidence pursuant to section 61 (2), it is not required to refer the matter again for assessment (section 61 (8) (b)). The court may do so, however, pursuant to section 62: (section 61 (8) (a)).

The above analysis indicates that the proposed amendment will achieve its purpose in clarifying the power of the court with respect to the substitution of its own determination as to whether the degree of permanent impairment of an injured person is greater than 10% in the specified circumstances. In short, the court is empowered by the amendment to substitute its own determination in such a case where it considered it to be appropriate to do so, but otherwise must refer the matter again for assessment.

Chambers
3 May 2000
D.D. FELLER

Reverend the Hon. F. J. NILE: I thank honourable members for their co-operation. The Christian Democratic Party is pleased to support the bill. It is hoped that premiums will remain low and will not skyrocket, but, mainly, that motor accident victims will feel that they have received justice as a result of this legislation.

The Hon. HELEN SHAM-HO [9.29 p.m.]: The Motor Accidents Compensation Amendment (Medical Assessments) Bill amends the unproclaimed section 61 (6) of the Motor Accidents Compensation Act 1999 for which I moved during the last session of this Parliament. The purpose of this amending bill is to clarify the section to reflect my intentions more accurately. I commend the Special Minister of State, and Assistant

Treasurer for keeping to his undertaking to introduce this amendment. With some hesitation, I support the amendment as it gives effect to my original intentions. Having said that, as I understand it, the issue still remains that the Government acted unconstitutionally in not proclaiming the original section 61 (6) as passed with the unanimous support of both Houses of this Parliament.

I do not think that any justification for doing so is sufficient to bypass the will of Parliament in the context of parliamentary democracy except, perhaps, in the most extreme case. It is interesting for honourable members to note that on the point of whether the Government has acted illegally there is a legal precedent from the House of Lords: *R v Secretary of State for the Home Departments: ex parte Fire Brigade Union and Others* [1995] 2 AC 513, which indicates that while a Minister may have a discretion in regard to the date upon which legislation is to be proclaimed, a Minister does not have the discretion to decide whether legislation is to be proclaimed.

I come back to the amending bill that is before the House. First, by way of background and for the record, I will speak briefly about the history and process leading up to the bill. In 1996, the Standing Committee on Law and Justice commenced an inquiry into the motor accidents scheme or, as it is known, the compulsory third party insurance scheme. I was the deputy chair of the committee. The scheme in New South Wales had been in crisis for some time, particularly in relation to the substantial debt it had been running since the late 1980s. The inquiry by the committee turned out to be one of the most detailed it has ever undertaken and resulted in three reports: two interim reports of mid-December 1996 and 15 December 1997, and its final report of 17 November 1998.

These reports led to the introduction in 1999 of what is now known as the Motor Accidents Compensation Act 1999. This Act incorporated many of the recommendations made by the Standing Committee on Law and Justice. Foremost on the agenda for the Government was the reduction of premiums by $100. As all honourable members know, New South Wales has one of the highest compulsory third party insurance premiums of any State in Australia because of its debt-ridden motor accidents scheme. To achieve this objective, the Government in the Motor Accidents Compensation Bill sought to reduce considerably the rights of motor accident victims. Of these aims, the change most relevant to this amending bill is, of course, the abolition of entitlement to non-economic loss for permanent impairment of less than 10 per cent when calculated in accordance with statutory medical guidelines.

With regard to the process for medical assessment as proposed under the scheme, my concern from the outset was the potential for procedural unfairness in claims for non-economic loss. Under the new legislation, a medical assessment with regard to the degree of impairment was to be determined by a single assessor without any safeguards for the victim through the possibility of recourse to an independent opinion of the courts. With the support of the Law Society, I drafted an amendment to the bill with the purpose of addressing this problem, thereby making the scheme more equitable for the victims. I should emphasise that at the same time I had no desire to jeopardise the overall objectives of the scheme, especially the need to improve its cost efficiency.

The amendment I moved—the now unproclaimed section 61 (6)—was drafted with the intention of providing victims with an avenue of appeal to the courts in the case of a medical assessment on percentage of impairment. Importantly, this avenue of appeal was to be subject to the gateway test of procedural unfairness—that is, an injured person has first to establish that he or she has been denied procedural fairness in connection with the issue of the medical certificate. As I have stated previously, it was never my intention for the section to grant jurisdiction for the substantive rehearing of a case but only to allow the court, in cases of procedural unfairness, to substitute its own determination if in its discretion it decides that would be appropriate on the evidence before it. As such, my amendment was also intended to act as a circuit-breaker to prevent the victim having to go back before a medical panel for reassessment. As I said, my amendment was passed with the unanimous support of both Houses of Parliament. However, it was the only amendment of the many amendments that were passed but failed to be proclaimed.

The Hon. J. J. Della Bosca: The honourable member is becoming personal.

The Hon. HELEN SHAM-HO: I am indicating why the Special Minister of State gave the matter some attention. Because of the importance of that amendment to the fairness of the scheme, non-proclamation of the section was noticed and was widely condemned as a serious frustration of the will of the Parliament. It was, in fact, an unconstitutional act on the part of this Government, as I alluded to earlier. In response to the controversy surrounding the non-proclamation of section 61 (6), the Hon. J. H. Jobling moved a motion in this House in November last year noting the failure of the Government to proclaim the section and calling on the Government to recommend its proclamation or explain its failure to do so.

In my speech supporting that motion, I traversed some of the circumstances that had led to the non-proclamation, including an article in the Law Society's bulletin, *Caveat*, dated 21 July 1999 which misleadingly—and I emphasise misleadingly—indicated that the section would give the courts an unfettered right to review medical assessment. From a question without notice asked by the Hon. Dr A. Chesterfield-Evans of the Special Minister of State, and Assistant Treasurer on 23 September last year regarding the non-proclamation of section 61 (6), it seems clear that the claim made by the writer in *Caveat* was in fact the main reason that led to the Government's refusal to proclaim the section. For the benefit of the House, I quote the relevant extract from the Special Minister of State, and Assistant Treasurer's answer to that question:

> As I have indicated, the subsection was not commenced because the legal profession, including the Law Society in its publication *Caveat*, has suggested an interpretation of the section that is completely contrary to that which was clearly intended by Parliament.

While I accept that the Government has had some basis for concern regarding the section's interpretation, it was not sufficient, as I have already said, to justify frustrating the will of the Parliament. Moreover, I did not, and do not, agree that the section would operate in a way that is contrary to what was intended. It is clear that when section 61 is read as a whole, section 61 (6) is qualified by section 61 (4), which lays down the threshold test of denial of procedural fairness in connection with the issue of a medical certificate. I would have preferred the Government to have proclaimed the legislation and allowed its interpretation to be tested before the courts.

My view has been confirmed by an opinion of legal counsel which was obtained at that time. Moreover, the Law Society has conceded that *Caveat* had made a mistake in the interpretation of the section. In any event, the interpretation of that section would have to be done in the light of the purpose and objects of the statute, the most important object of which is making the scheme more cost efficient, as I said earlier. The motion was put on hold when the Special Minister of State, and Assistant Treasurer agreed to produce at the beginning of this parliamentary session an amendment to my amendment to clarify any confusion—an agreement which, to be fair, he has honoured tonight. I have been given the opportunity to consider the implications of this amendment as well as seek the opinion of interested parties, such as the Australian Plaintiff Lawyers Association, the Bar Council and the Law Society as well as individual lawyers.

From my own reading, I had initial concerns with regard to the qualifying word "greater" used in relation to the issue of the certificate and the degree of impairment. It is my personal view that, as we are in the process of eliminating any confusion, the section would be clearer if it simply referred to the issue of the certificate with regard to the degree of permanent impairment without any prefacing words such as "greater" or "less than". However, on further consideration and in consultation with Parliamentary Counsel who also drafted the Government's amendment, I am satisfied that the words "whether or not" in the new amendment will ensure that the section does indeed cover certificates certifying an impairment of less than 10 per cent.

On the other hand, I welcome the addition to section 61 (6) of the phrase "assessed by the court in accordance with section 133". Section 133 provides for the method of the assessment of degree of impairment to be done in accordance with statutory guidelines. As I have already said, I never intended that provision to open the way for a substantive rehearing, and setting this condition in section 61 (6) is therefore in the spirit of the original intention and will tighten the section appropriately.

In conclusion, I express my disappointment again that the section was not originally proclaimed in accordance with due legislative processes and the will of Parliament. As I emphasised in my speech when I supported the motion of the Hon. J. H. Jobling, I originally moved the amendment in a co-operative spirit and in consultation with the Government. I emphasise that to frustrate the parliamentary process in this way places in jeopardy our reliance on behind-the-scene negotiations and compromises. In circumstances such as these, it is right for the Government to allow the section to be tested before drawing conclusions. In any case I am pleased with the Government's new amendment and I thank the Special Minister of State for it. I commend the bill to the House.

The Hon. J. J. DELLA BOSCA (Special Minister of State, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [9.44 p.m.], in reply: The Government appreciates the support of the House for the bill. As has been made clear by a number of speakers, the bill fulfils a commitment to the Hon. Helen Sham-Ho, and those supporters of her amendment, that the Government would bring forward its own appropriate variation on the theme of her original amendment. I hope that it draws, if not controversy, the concerns of the House and the legal profession in relation to the non-proclamation of section 21 to a favourable conclusion. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PARKING SPACE LEVY AMENDMENT BILL

Bill received and read a first time.

Motion by the Hon. J. J. Della Bosca agreed to:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

ADJOURNMENT

The Hon. J. J. DELLA BOSCA (Special Minister of State, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [9.46 p.m.]: I move:

That this House do now adjourn.

HOME OWNERS WARRANTY LTD

The Hon. J. F. RYAN [9.46 p.m.]: If anyone ever has the misfortune to hire a bad builder, do not expect help from a building insurance company such as Home Owners Warranty [HOW]—expect stalling, expensive legal wrangling and threats. That company writes about 80 per cent of New South Wales home building insurance policies. It is a subsidiary of the Housing Industry Association [HIA], an industry association representing builders. A home owner who attempts to make a claim on his policy will find he faces an uphill battle from HOW every step of the way. Even getting a claim form is a battle. A constituent told me that she was forced to visit its city office personally to collect a claim form. She was also told, "We are not in the habit of handing out claim forms. You must settle the dispute with your builder by taking the builder to court." Those who do get a form and make a claim are likely to find that it is ignored unless they pay between $200 and $500 for an expert report by a building consultant.

Mr Wright of Sandy Point, whose house was built by the infamous Mr Vitalone—whom I have spoken about before—has discovered a crack in his house about the width of a large knitting needle, and some hairline cracks going up through five courses of brickwork. People do not want to see that sort of thing a few months after they have moved into a brand new house. Mr Wright called the Department of Fair Trading, which inspected and photographed the allegedly defective slab. The department strongly recommended that Mr Wright submit a claim to the insurance company. At first, HOW tried some bogus legal argument to deny liability. HOW said that an earlier ruling of the Fair Trading Tribunal against the builder, Mr Vitalone, had voided the insurance policy. HOW flatly refused to take the matter further and it was only after I intervened that it finally agreed to send an assessor. But its so-called independent assessor turned up at Mr Wright's home to conduct the inspection with the builder, Mr Vitalone!

The assessor told the owner, "This sort of cracking is normal. It is acceptable according to the Australian Standard. Now keep calm, don't get hot-headed about it. If you want to take it further you will have to get a structural engineer's report and go to court. That will be very expensive. Just calm down and enjoy your house." With that, he left. There was no digging, no measuring, just a veiled threat. HOW appears to have a standing policy that it will not pay any claim, no matter how legitimate, if the owner and builder are in dispute. I ask: How would you not be in dispute with a builder if you were accusing them of shoddy building work? Almost any claim HOW eventually pays has to be litigated in the Fair Trading Tribunal first. HOW knows that it often takes years to finalise cases in the tribunal. Sometimes it even sends a legal team with a barrister and a solicitor to defend the builder just to make sure that it does.

For example, in relation to Wentworthville home owner Juchuan Chen, his builder, Mr David Kuk of Vico and Associates, took months to get half the house built and then just abandoned the site. HOW's own building assessor agrees that practically all of the brickwork in the two-storey house will have to be demolished. It also agrees that while the builder has not even half finished the house, the owner has paid 58 per cent of the price. But HOW still will not pay until it is ordered to do so by the Fair Trading Tribunal because the builder has the hide to claim that Mr Chen has not paid him enough.

Only a fortnight ago, HOW had a barrister at the tribunal to defend this builder to the hilt. Even though the tribunal is supposed to cut through long legal procedures, the barrister was allowed to spend most of a precious one-day hearing filibustering by reading every word of a long written submission. That marathon effort

caused yet another two-month adjournment. The sale of home building insurance is not subject to normal market pressures. Together with the green slip motor accident insurance these policies are compulsory. Therefore, they need close government monitoring. In fact, a few lessons should be learned from the motor accident insurance scheme by the home building insurance industry.

Under the Home Building Act the Minister for Fair Trading is supposed to monitor the policies. The Minister's answer to a question of mine on the notice paper today suggests that the amount of monitoring is low. No information is collected about the amount of premiums collected by insurers, about the time it takes to process claims and as to how many claims are paid with or without first being litigated in the Fair Trading Tribunal. That is in complete contrast to the motor accidents scheme, which collects all of that sort of information. I also think that the scheme needs another fundamental reform. The choice of insurance company for each building job should be made by the home building customer, not the builder.

Under the current arrangements insurers such as HOW regard builders, not home owners, as their clients. It is no wonder that they will defend almost any outrageous business ethics from shoddy builders. If it did not it would not have any customers yet, under the Home Building Act, these insurance companies have become the de facto regulators for the home building industry. Recently the Act was changed so that any home builder who could not get insurance would have his licence suspended. The companies now regulate the industry and, of course, builders are regarded as their customers, so they are unlikely to make a decision against them. It really is not hard to see why the current system is not working.

I believe that HOW should not be involved in this sort of insurance. They need to be approved by the Minister and the Minister should review that approval at the next available opportunity. It is not that I have anything against HIA as an industry association: it is supposed to vigorously defend builders, but I believe it is a gross conflict of interest that it runs the insurance company which monitors nearly all the building work that takes place in this State. That situation needs severe reform and it is something that I will be pressing for the rest of the year to get co-operation from the Minister.

CHINA VISION EYE PROJECT

The Hon. Dr P. WONG [9.50 p.m.]: I would like to inform the House of my recent participation in a medical team that visited the city of Meizhou, in Guangdong province, China, where the Hon. H. S. Tsang came from. China Vision is an eye project initiated by me in 1997 when I was the Chairman of the Australian Chinese Charity Foundation. The foundation was established in 1990. It is a tax-deductible charity in which the Hon. Helen Sham-Ho is an adviser and her husband, Councillor Robert Ho, is a trustee and a former chair. The purpose of our visit this time was to treat patients from lower socioeconomic backgrounds who are suffering from cataracts and other eye diseases. At the same time, we were able to transfer the high technology of cataract surgery to the Chinese doctors.

Our future intention is to bring eye specialists from China to Australia to further their training and bring back to their country a wealth of medical experience and knowledge which are still not yet available to many cities in China. China is a vast place. The Meizhou district we visited has a population of about four million, which is close to the population in New South Wales. Yet there is only one hospital that has eye specialists. Previously, eye specialists from another big city—Shensheng—visited the local area from time to time and provided urgently needed medical expertise for the local population in the field of eye surgery. Our team stayed in Meizhou for a week. During the team's stay in Meizhou we treated more than 35 patients, implanting advanced intraoccular lenses into their eyes, enabling many of them to see again.

We also taught the local doctors the modern technology of microincision for cataract surgery. I am particularly grateful for the eye specialist Dr Alvin Goh, who came with us, as well as our anaesthetist Dr Michael Tjiew, our theatre nurse Carol Hew and many other volunteers who, despite their busy schedules, came to offer their services free of charge. China Vision received enormous support in the community. Over $40,000 was raised for the trip—32 individuals donated $200 each towards the purchase of a set of lenses for a patient in China. Sydney Pacific Lions Club, through its founding president, Mr Nelson Wong, and the incoming president, Mr Michael Chung, contributed greatly toward the success of the project. Last, but not least, Ansett Airlines sponsored air tickets for the team and the Chinese Consul General office in Sydney provided enormous support to ensure the smooth running of the project. Australia is highly regarded by many countries for its medical knowledge and advanced medical technology.

The Hon. J. J. Della Bosca: And for its generosity.

The Hon. Dr P. WONG: And its generosity, yes. Hopefully, with the dedication of many doctors and nurses of this country, China Vision can be an example of many more humanitarian projects through which we can help people in other countries who are less fortunate than we are.

FEDERAL INDUSTRIAL RELATIONS LEGISLATION

The Hon. P. T. PRIMROSE [9.52 p.m.]: Paul Bastian, the New South Wales State Secretary of Australia's biggest manufacturing union, the Australian Manufacturing Workers Union [AMWU], has branded proposed changes to Federal industrial relations legislation as pathetic and hypocritical. The proposed changes to Federal legislation have been introduced into the Federal Parliament by workplace relations Minister, Peter Reith, and are aimed at reducing the bargaining strength of unions by outlawing so-called pattern bargaining. Pattern bargaining is a practice used by unions when they campaign for common claims across an entire industry. This was the technique used to introduce maternity leave, workers compensation coverage, protection against sexual harassment, equal pay for women and other conditions that Australian workers now enjoy.

The current Federal Government has always encouraged enterprise-based bargaining as a means to limit the power and influence of the larger unions. This proposed legislation is last year's legislation and is merely a repackaged version of the Federal Government's failed second-wave legislation. Australians saw that legislation for what it was, and they will see through this pathetic attempt to slide the legislation in through the back door again. The Democrats rejected the amendments in the Senate last time, and we can only hope that they will not be fooled this time by Peter Reith's rebadging of his old legislation.

Civil liberties groups have joined the trade union movement in criticising the Federal Government's attempts to reduce the power and independence of the Australian Industrial Relations Commission [AIRC]. Mr Bastian points out that the proposed changes to the Workplace Relations Act would force the AIRC to impose heavy legal restrictions and penalties against unions whose collective bargaining tactics are not considered to be in the public interest. The commission would be compelled to ban or stop strikes on the application of the employer. Whatever happened to the idea that we are all equal before the law?

The proposals would also restrict or stop the unions' traditional right to strike by strengthening the powers of employers to take action against unions in the States' courts. The level of Peter Reith's hypocrisy is astounding, even by his own standards. On the one hand, he has applied his slash and burn approach to the Industrial Relations Commission by compelling the commission to stop strikes and other legitimate industrial action by unions. On the other hand, his own office has prepared a model agreement to be used throughout small businesses to promote individual employment contracts. Australians will simply not accept legislation that is so blatantly unfair.

The AIRC is supposed to be an independent umpire. Peter Reith's proposed legislation makes it his own personal industrial police force. Reith seems to believe that it is acceptable for employer groups such as the Australian Industry Group [AIG] to work in coalition with the Government to block every move by trade unions. State Secretary Paul Bastian is also concerned that even though this proposed legislation is targeted squarely at the Australian trade union movement, the bill will have widespread ramifications for community organisations generally. For instance, if women's groups decide to pursue the issue of paid maternity leave with unions, the unions would be prevented from pursuing such claims through enterprise bargaining because, under the proposed new laws, the bargaining period could be terminated and any industrial action taken in pursuit of those claims would be declared illegal and put workers at risk of legal action.

Other examples of campaigns that unions would have to avoid include the textiles unions fair-wear campaign for outworkers and the environmental campaigns run by environmental groups in conjunction with unions against mining companies. The Australian people will reject this as bad policy, and we can only hope that the Democrats will see it the same way. Peter Reith would do much better if he focused his attentions on introducing serious legislation to protect the legal entitlements of Australian workers instead of his obsession with destroying their trade unions.

COMPANION ANIMALS LEGISLATION

The Hon. D. J. GAY (Deputy Leader of the Opposition) [9.55 p.m.]: The Opposition and the community have had concerns about the Companion Animals Act since its introduction in New South Wales in 1998. Honourable members who were here at that time may recall the debate that led to the passage of the Act and the more than 200 amendments put forward by the Opposition and others that were required to shape the

Act into a mildly workable form. However, significant problems still exist with the Act, and those problems have been highlighted to me again during the past week. I would like to read a letter that I received yesterday from Mr Michael Stunnell, a resident of Maryland. This letter is borne from the frustration that Mr Stunnell has experienced because of the Companion Animals Act. The letter states:

> It has taken me some time to bring myself to write this letter. I do not usually complain. However, when something is so blatantly wrong one must do something to correct the situation.

The Hon. Jan Burnswoods: You complain all the time.

The Hon. J. J. Della Bosca: You never stop complaining.

The Hon. D. J. GAY: It would serve Government members well if they listened to what constituents have to say, instead of adopting the typical Labor attitude of ignoring them. I continue to quote from letter of this constituent, whom the Labor Party would not listen to. He is one of its constituents. The letter continues:

> On Wednesday the 23rd February my wife was on the telephone from 3.00pm until 3.30pm. "Nelson" the toy poodle was sitting on the lounge for most of this time. After the telephone call ended, my wife looked for "Nelson" and found him missing. She then searched the house and yard and discovered a small break in the fence. She then went looking for him immediately, walking the neighbourhood for miles.
>
> I arrived home at 5.30pm. My wife was distraught, crying uncontrollably. We then both searched the neighbourhood again. However, to no avail. We thought he may have been run over by a car or taken by somebody. It was like losing a child. The next morning I rang the RSPCA to find, very much relieved, that he was safe and well. We paid a fee of $40 and brought him home.
>
> He had been taken to the R.S.P.C.A., we suppose by a **"concerned"** neighbour. He was booked in at 4.10 p.m. He had been missing for a maximum of 40 minutes. If he had been left alone I'm sure he would have found his way home to Rothby St, where he was picked up is no more than 150 metres from where we live. Most people in that street know him and know where we live.
>
> I thought when we paid the fine to the R.S.P.C.A. that it would be the end of it, but that was not to be. I received in the mail from Newcastle City Council two fines, one fine for **"Dog not on a lead,"** and "**Dog without a collar"**. The fines were for **$110** each. You don't get that for armed robbery. I was, of course, very unhappy with this occurrence and so went to my local council member who wrote a letter to the Director of Infringement Processing Department explaining the circumstances.

The Hon. J. J. Della Bosca: Was this in Crookwell?

The Hon. D. J. GAY: This is one of the Minister's constituents. The letter continues:

> This fell on deaf ears, the fines stood even after a sitting member of the council told them they were wrong, plain wrong.
>
> I find this particular fine **excessive** in the **extreme**. It was an **accident** that could have happened to anyone and measures have been put in place to see that it does not happen again. Both my wife and I are pensioners; we can't afford such a ridiculously heavy fine. This little incident has cost $40 R.S.P.C.A. fee, $68 Vet Fees for kennel cough he contracted at the R.S.P.C.A. and $220 in fines to the N.S.W. Government. A total of $328. *It is not fair*. **No wonder there are so many dogs unclaimed.**
>
> There is no right of reply. You pay or go to jail. Surely for such a trivial breach, **no**, accident. There should be a warning for the first offence, surely. It is about time something is done to bring home to politicians that laws are **meant for the people** not to swell the coffers of the State Government.
>
> Wouldn't this look good all over the front page of the National newspapers? I hope you can champion my cause to right this crazy law.

CASUARINA BEACH DEVELOPMENT

The Hon. R. S. L. JONES [10.00 p.m.]: Some 10 years ago an inquiry was conducted by the Independent Commission Against Corruption into North Coast land dealings. Honourable members may remember that immortal phrase of Wal Murray, the Deputy Leader of the Opposition at the time, "Stop stuffing around. I want this pushed."

The Hon. Jennifer Gardiner: Say that again.

The Hon. R. S. L. JONES: Do honourable members remember Wal Murray's famous phrase?

The Hon. Jennifer Gardiner: He said, "Stop stuffing around."

The Hon. R. S. L. JONES: "Stop stuffing around." The second part of his statement was, "I want this pushed."

The Hon. D. J. Gay: No, he did not say that.

The Hon. R. S. L. JONES: I stand corrected. But that is the phrase that I have known for the past 10 years. This whole matter has arisen again. It appears as though the monster from north of the border has finally found its way onto the Tweed coast. This evening Tweed Shire Council is proposing to pass a rushed development called the Casuarina Beach development. Council delivered yesterday a 294-page report on this development with less than 24 hours to read it in time for tonight's meeting. This is not the only development causing people concern.

This development is a subdivision of individual house lots located partly within the 7F coastal protection zone, which inhibits the effective management of coastal processes and facilitates private intrusion into lot 500, which is located on Crown land. The group Tweed Monitor believes that in recent weeks Tweed Shire Council approved the construction of a swimming pool in the 7F erosion zone at Hastings Point, which is an indication of this council's attitude to coastal protection. One or two councillors and a number of groups are up in arms and they are most concerned about the way in which this and other developments are being handled and pushed through by the council.

The Fingal Dune Care Group, the Tyalgum Landcare Group and Tweed Valley Wildlife Care are all up in arms and have written to the Premier and to the Director-General of the Department of Urban Affairs and Planning, Sue Holliday, expressing concern about the effect of this and other developments, not only on the environment and the erosion zone but also on loggerhead turtles which have been found nesting in the area. The 1999 flora and fauna report by James Warren and Associates states that loggerhead and green turtles were not known to occur or likely to occur in the area. The National Parks and Wildlife Service confirmed that these turtles were found in that area.

These groups are also most concerned that the development will have an impact on black flying foxes, common blossom bats, little bent-wing bats, the tawny frogmouth, swamp wallabies, sooty oystercatchers, pied oystercatchers and the endangered little tern. They are concerned that the plantings that will be taking place will be ineffective and result in a monoculture. They state:

> We do not believe the existing coast road should be replaced—it serves the area well and new roads will cause unnecessary environmental disruption. How close will it run to the Koala fence and the already stressed Cudgen Creek? How will erosion to the Eastern bank of the creek be prevented? Are you—

the Director-General of the Department of Urban Affairs and Planning—

> aware that runoff from Casuarina Beach Estate on the off-shore side will be directed into the creek?

A number of concerns were expressed in that letter to the director-general. Today in question time I asked the Minister for Urban Affairs and Planning to urgently review this matter, to look at the whole question of this enormous development which council is attempting to rush through tonight, and to look at other proposed developments. We are now looking at Gold Coast-style developments moving south of the coast and destroying the coastline. A number of residents expressed concerns at a recent meeting about the fact that the cancer has finally moved south.

CORROBOREE 2000

The Hon. HELEN SHAM-HO [10.05 p.m.]: As a member of the Council for Aboriginal Reconciliation I inform the House of Corroboree 2000—the nationwide celebration of reconciliation to be held this weekend, 27 and 28 May. Corroboree 2000, a two-day event, will open National Reconciliation Week in Sydney. The celebration will be officially launched on Saturday at the Sydney Opera House. The council will host a ceremony to celebrate the achievement of reconciliation and to outline a framework for continuing the process beyond 2001.

Approximately 2,000 people, including the Prime Minister, the Hon. John Howard, the Governor-General, Sir William Deane, the State Governor, the Hon. Gordon Samuels, the six State Premiers, the two Chief Ministers, mayors from Sydney, North Sydney and Melbourne, representatives from different sectors and leaders of indigenous communities will gather to hear a number of speakers present their vision on the path to reconciliation. Our inspirational speaker will be Dr Mike Dodson.

More importantly the council will present the final draft of the Australian Declaration Towards Reconciliation for consideration by the Australian people. It will be received by all political leaders. Speakers and other participants will then be invited to place their handprints on a canvas containing the council's vision statement to symbolise their commitment to reconciliation. On Sunday 28 May more than 100,000 people are expected to cross Sydney Harbour Bridge in a people's walk for reconciliation. The 4.1 kilometre walk, which will start outside North Sydney train station and continue from 8.00 a.m. until midday, will finish at Darling Harbour.

This event will provide all Australians with an opportunity to publicly demonstrate their commitment to reconciliation as the nation approaches the Centenary of Federation in 2001. Following the walk, free entertainment will be available at various venues across Sydney and at Darling Harbour for all to enjoy. Council hopes that the reconciliation process will continue after its term ends on 1 January 2001. Council will also launch the Reconciliation Foundation this weekend—a foundation which will be charged with assisting in the continuation of the reconciliation process. As with the council, the foundation will comprise a cross-section of leaders from across Australia, some of whom will have served on the council.

To raise money for the foundation people will be asked to donate a gold coin during the walk across Sydney Harbour Bridge. I speak also about the council's final proposal for a document for reconciliation—the Australian Declaration Towards Reconciliation. This document is an essential element in the process of reconciliation. It is the product of 10 years of work by the council and reflects what the council believes to be the broad principles of reconciliation and the necessary actions to achieve it. It acknowledges the status of Australian Aborigines as the first people and the fact that there has never been a treaty between the indigenous people of this country and the original settlers.

It recognises the existence of Aboriginal customary laws, beliefs and traditions and reaffirms the need for the protection of indigenous, cultural and human rights. Most significantly, by addressing the contentious issue of an apology to the stolen generation, the document highlights the need to confront past injustices and respects the rights of self-determination of indigenous people in order to move forward into the future. The document has two parts. The declaration will be accompanied by "A Roadmap for Reconciliation"—a paper containing concise versions of four strategies for practical action to make reconciliation a reality.

It should also be noted that the Australian Declaration Towards Reconciliation is an aspirational statement only and awaits the approval of the Australian people. It is a truly momentous document and I sincerely hope it will gain the support of the Australian people. I seek the leave of the House to have it incorporated in *Hansard.*

Leave granted.

AUSTRALIAN DECLARATION

Towards Reconciliation

We, the peoples of Australia, of many origins as we are, make a commitment to go on together in a spirit of reconciliation.

We value the unique status of Aboriginal and Torres Strait Islander peoples as the original owners and custodians of lands and waters.

We recognise this land and its waters were settled as colonies without treaty or consent.

Reaffirming the human rights of all Australians, we respect and recognise continuing customary laws, beliefs and traditions.

Through understanding the spiritual relationship between the land and its first peoples, we share our future and live in harmony.

Our nation must have the courage to own the truth, to heal the wounds of its past so that we can move on together at peace with ourselves.

Reconciliation must live in the hearts and minds of all Australians. Many steps have been taken, many steps remain as we learn our shared histories.

As we walk the journey of healing, one part of the nation apologises and expresses its sorrow and sincere regret for the injustices of the past, so the other part accepts the apologies and forgives.

We desire a future where all Australians enjoy their rights, accept their responsibilities, and have the opportunity to achieve their full potential.

And so, we pledge ourselves to stop injustice, overcome disadvantage, and respect that Aboriginal and Torres Strait Islander peoples have the right to self-determination within the life of the nation.

Our hope is for a united Australia that respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all.

The Hon. HELEN SHAM-HO: Finally, I acknowledge the contribution made by the Sydney Chinese community in sponsoring the corroboree hats as souvenirs. In a commendable show of support, a number of sponsors, including the Australian-Beijing Association, T and T Investment Group Pty Ltd, and my various friends Joseph Wong, Terence Tang, Lee Ly and William Yee, provided the necessary funds to acquire 2,500 corroboree hats on behalf of the Council for Aboriginal Reconciliation. These hats will be distributed to the 2,000 participants in the reconciliation weekend on Saturday, and the remaining 500 will be distributed to the marshals of the reconciliation walk on Sunday. I have made an extra 100 for friends, for my colleagues in this House who will be walking and for sponsors. I urge all honourable members to come and show their commitment and support for the reconciliation movement through Corroboree 2000. Their participation is a vital component of the council's need to hand over that document to the Australian people for judgment on what is fair, reasonable and just. [*Time expired.*]

ILLAWARRA ESCARPMENT

The Hon. I. COHEN [10.10 p.m.]: One of the most valuable and beautiful natural areas in the State is the Illawarra escarpment, which provides a wonderful green backdrop to the city of Wollongong. During 1998 and in early 1999 a commission of inquiry was held into land use and management of the escarpment. The commission's report contains very practical and sensible recommendations that were designed to bring about major changes in the way Wollongong City Council makes decisions about development, management and conservation of the escarpment. The report has been strongly supported by a cross-section of the community, who are greatly concerned by the failure of the Government and the council to implement any of the recommendations.

I wrote to the Minister for Urban Affairs and Planning in February and asked him to ensure that the recommendations were implemented. The Minister has not replied to my letter. This is completely unsatisfactory. The Wollongong community has been campaigning for many years to protect the escarpment. The council's fair trading policy was completely discredited by the commission. It was not supported by any of the government agencies or community groups that made submissions. Only a handful of submissions from groups and individuals with an interest in escarpment development supported the council. Yet, 18 months after the conclusion of the inquiry, there has been no progress in the implementation of the recommendations. A discredited policy that has resulted in major damage to the escarpment is still in effect and is resulting in ongoing and unnecessary damage.

In August 1998 Wollongong experienced a major storm, which caused approximately $100 million worth of damage. There was nothing extraordinary about the storm, despite the claims of some people to the contrary. Extremely heavy rainfall is a normal climatic event in the Illawarra. However, the intensity of the stormwater damage that occurred as a result was not a natural event. It was due largely to the development that has occurred on the escarpment foothills. The real environmental damage occurring as a result of the lack of proper planning for the escarpment is undeniable. It has resulted in real financial losses and is placing community safety in jeopardy. It is causing permanent damage to a magnificent natural asset which could form the basis of new sustainable industries.

I call upon the Government to fully recognise the value of the Illawarra escarpment. The appropriate planning framework that has been the subject of years of community input needs to be put in place now. When Rupert Murdoch wanted to develop the Sydney Showground the Australian Labor Party made sure that the planning laws of this State were changed within days to accommodate him. What is the reason for the Government's 18 months of procrastination on this issue? The escarpment is very steep and spectacular land between two major cities—Sydney and Wollongong. It has a high population density. It is a marvel, with the ocean on one side and the steep escarpment on the other. It is one of the most majestic coastal drives anywhere in the world.

As we develop the escarpment areas, the run-off and the water flow will cause greater damage every time there is a storm. We have already had trouble with the Wombarra tunnel and flooding as a result, with damage to properties and therefore huge insurance claims and terrible problems for the residents. The very steepness of the area gives it such grandeur but also makes it extremely fragile. If we allow development on the escarpment to go ahead unchecked it will degrade the area to a huge degree. It will cause many more problems than we have seen in the past, with damage to private property. These are areas that should not be developed and settled, and it will be an indictment of the Government and council if this development is allowed to go ahead. I call on the Government to act now.

Motion agreed to.

House adjourned at 10.14 p.m.