

## **LEGISLATIVE COUNCIL**

Thursday, 17 March 1994

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**The President (The Hon. Max Frederick Willis)** took the chair at 10.30 a.m.

**The President** offered the Prayers.

### **OFFICE OF THE OMBUDSMAN**

**Report: Proposing Amendments to the Freedom of Information Act 1989**

**Report: Urgent Amendment to Section 121 of the Police Service Act**

**The President**, pursuant to section 31AA(1) of the Ombudsman Act 1974, tabled a special report of the Ombudsman entitled "Proposing Amendments to the Freedom of Information Act 1989", dated 17 March 1994, and a further special report of the Ombudsman entitled "Urgent Amendment to section 121 of the Police Service Act", dated 17 March 1994.

### **ST PATRICK'S DAY**

**Motion by the Hon. J. F. Ryan agreed to:**

That this House notes with pleasure the 199th recorded commemoration of St Patrick's day in New South Wales, and compliments the Irish community on the festivities arranged for the Sydney Irish Festival taking place in Sydney during the month of March.

### **PETITIONS**

#### **Container Deposit Legislation**

Petition praying that because of the detrimental effect of throw-away packaging on the environment, legislation be introduced imposing a mandatory deposit on all containers sold in New South Wales, received from the **Hon. R. S. L. Jones**.

#### **Abortion**

Petition praying that because of community support for the continued availability of abortions and a woman's right to choose abortion and the continued availability of counselling services for abortion clinics, the House not support any restriction of existing abortion services, received from the **Hon. Ann Symonds**.

### **FLAG OF THE REPUBLIC OF IRELAND**

**The PRESIDENT:** Order! Today is the national day of the Republic of Ireland, and I inform the House

that, pursuant to a request in that behalf and a decision made by Mr Speaker and me, the national flag of Ireland is flying from the masthead in the forecourt.

## **STANDING COMMITTEE ON SOCIAL ISSUES**

### **Sixth Report: Sexual Violence: The Hidden Crime**

#### **Debate resumed from 10 March.**

**The Hon. ELISABETH KIRKBY** [10.38]: It is with pleasure that I support the motion moved by the chair of the Standing Committee on Social Issues, the Hon. Dr Marlene Goldsmith, that the House take note of part 1 of the report into the incidence of sexual offences in New South Wales, a report that the committee has entitled "Sexual Violence: The Hidden Crime". Honourable members who have read the report will be aware that it is detailed and lengthy, and I commend it to all honourable members. As other contributors to the debate on this motion have stated already, the report was triggered by the international crime survey that suggested that Australia had the highest rate of sexual incidents of the countries surveyed.

Of course, when the announcement was made it was interpreted widely in the popular press to mean that Australia had the highest rate of sexual violence in the world. Part 1 of the report seeks to understand the extent of sexual violence rather than to explain why it occurs. It is an extensive report based on material collected by the committee in Australia and overseas. I wish to deal briefly with some of the issues raised in the report that will lay to rest a number of myths about sexual violence. The first myth is that the real danger to women will come from strangers. Regrettably this is not the case, as detailed research has proved. Seventy-five per cent of sexual violence was perpetrated on women by non-strangers: 9 per cent by either a husband or ex-husband, 11 per cent by father or stepfather, 10 per cent by boyfriend or ex-boyfriend, 16 per cent by other relatives and 29 per cent by acquaintances, men known to the victim. This research was carried out by Kilpatrick et al, published in 1992.

This finding alone should demolish the hackneyed argument that women who are raped - and I am using rape in its wider sense to include all forms of sexual assault - ask for it, either by their behaviour, the way they dress or by putting themselves into compromising situations. Other surveys give credence to the belief that non-stranger sexual violence often goes unreported. A woman may have to bear the double burden of being betrayed by a person she has trusted and then making a decision about whether she will report the rape or sexual assault. This dilemma is compounded when the perpetrator is the husband, because the woman is then forced to live with the trauma of the assault and continue to live in close proximity to the rapist, her attacker.

The reasons that many women do not report to the police were identified by Dr Patricia Esteal. I urge honourable members to look at figure 13 on page 118 of the report, which clearly demonstrates the reasons why women do not report sexual assault to police. Figure 13 illustrates the sad fact that the reason given by almost 50 per cent of women for not reporting the assault was because they were ashamed. These feelings of shame, guilt, confusion and embarrassment then lead to self-blame and self-recrimination - all feelings that only add to the great trauma and distress.

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Perhaps one encouraging result to emerge from our research is that the number of women reporting to the Sydney Rape Crisis Centre is rising. In 1990-91 and 1991-92 slightly more than 800 women reported to the Sydney Rape Crisis Centre. In 1992-93 more than 1,000 women were in need of the services offered by the centre. However, it is disturbing that the evidence that came to light showed an even higher per capita rate of sexual assault in far western and northwestern New South Wales: 89 per 100,000 population in the Far West, 55.2 per 100,000 in the Murrumbidgee and 51.8 per 100,000 in the northwest.

Again I refer honourable members to table 13 on page 133, and to page 141, where the results of a

phone-in held on 1 and 2 November 1990 by the New South Wales Sexual Assault Committee were evaluated. The phone-in was valuable in that more than 1,000 calls were received. However, it has been recognised by the organisers that they did not have enough time or money available to meet the needs of women from non-English speaking backgrounds or the needs of Aboriginal women. It was decided to conduct a follow-up survey using questionnaires and face-to-face interviews. Unfortunately, again time and resource constraints limited this strategy. For this reason the Standing Committee on Social Issues recommended that the Government ensure that women from non-English speaking backgrounds, Aboriginal women and women with disabilities be specifically targeted in future sexual violence phone-ins.

I should like to refer honourable members to figure 18 on page 142 of the report which shows the relationship of the perpetrator to the victim. In more than 70 per cent of cases the assault was perpetrated by friends, by relatives or partners of the women assaulted. What is even more serious is that 97 per cent of women interviewed had reported on-going problems with their relationships whilst 78 per cent reported disruption to their normal daily life after being the victim of a sexual assault. The data collected by the New South Wales Sexual Assault Committee was mirrored by data collected by the Sydney City Mission in 1993. The report of the Sydney City Mission illustrates that more than 50 per cent of assaults occurred in the victim's home or in the assailant's home and that more than 70 per cent of the assaults involved only a single male assailant. In other words, gang rape - to use that term loosely - is not as frequent as many people believe. In fact it is a further example of a myth shown to have no basis in fact.

Recently there has been much argument about the need for women's refuges. The Leader of the Opposition in another place is now on record as stating that the policy of the Australian Labor Party would be to ensure that the victim remained in the family home and that the perpetrator had to leave. I would agree with the philosophy that it is grossly unfair for the victim to have to leave the family home while the perpetrator, whether a relative or partner, remains in enjoyment of the property. However, we should also consider two other aspects of this problem.

The first is how the perpetrator will be prevented from returning and occasioning further distress and trauma to the victim. I know that apprehended violence orders and domestic violence orders imposed by the court make it an offence for the perpetrator to return or make contact with the victim, but in many cases these orders are not obeyed, and many tragic circumstances have arisen. In fact a recent death has resulted where a magistrate would not issue an apprehended violence order. The victim was approached once again by the ex-partner and was in fact murdered by him. Although in theory it may be a good idea to allow the victim to remain in the home, difficulties will arise in ensuring that women and children are safe.

The other aspect is the emotional need of many women: the need to be in a safe, secure, supportive environment. This is particularly the case when they need the security and support for their young children. The need for refuges or shelters was highlighted in the United Nations publications entitled *Violence against Women and the Family* published in 1989. This is a publication that I brought back last year when I attended the Human Rights Conference in Vienna. Honourable members who wish to look at this publication are very welcome to do so; I would be happy to lend it to them. I quote from page 78 of that report:

The shelter movement has had two effects. First, and most importantly, it has provided a haven for women who are abused and secondly, it has drawn attention to the fact that wife assault is a real social problem. The movement is not, however, without its critics. Some argue that refuges speed the breakdown of marriages. This criticism is not supported by the research, which indicates that the refuge is a place of last resort and that women will exhaust all mechanisms of informal support and only then turn to the refuge. Indeed, women who use such facilities are very often socially isolated and live a long distance from relatives. Moreover, research reveals that the women who attend the refuge are very frequently at the end of their marriages. They may return to their husbands, but they will usually eventually leave them. The evidence is, therefore, that women will use a refuge or shelter when their marriage is ending, but the end may be slow and painful.

Later it states:

A refuge can be many things for many women. It provides survival, safety, support, self-esteem and information. It can often amount to a turning point for a woman. Thus, Pahl, who twice interviewed a group of women who used a refuge - once when they had just used it and again some years later - discovered that the refuge had been important to all the women. Many of the women knew they wanted to end their relationship before they got to the refuge but only found the ultimate courage to make the break after staying there, while others used it as a symbol to their husbands to indicate that the relationship would be at an end if the violence did not stop. All found the refuge to be a place where they could recover from their shame and isolation and where they gained support, help and friendship.

That is an important finding, and something we really need to take into consideration. Honourable members know that in New South Wales, and possibly all over Australia, there are insufficient refuges for the number of women who need support and help. Far too often funding for such refuges is an easy option for a government to cut when it is running short of

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money. I know perfectly well from the waiting lists at refuges in New South Wales - particularly in some parts of New South Wales where there is nowhere for women to go - that money from government to assist the establishment of a refuge has not been forthcoming. That is probably not so bad in Sydney but it is certainly bad in the west of the State and west of Lake Macquarie.

The answer given by the Minister for Community Services has simply been that money was not available; he did not have it within his budget. I obtained another United Nations publication when I was in Vienna at the Human Rights Conference in June 1993. Considerable discussion has taken place among women all over the world on this terrible problem of sexual and domestic violence. Since 1985 the United Nations has really focused on the issue. The document states:

The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders adopted a resolution on domestic violence that was endorsed by the General Assembly in 1985, in its resolution 40/36, the Assembly's first specific resolution on domestic violence. In the resolution, the Assembly called for research to be conducted from a criminological perspective on the development of strategies to deal with the problem. It requested that Member States implement specific measures and that the Secretary-General report on the question of domestic violence to the Eighth Congress on the Prevention of Crime and the Treatment of Offenders that Congress was invited to give the issue its particular attention.

The Economic and Social Council, in its resolution 1986/10, section IV, called for the convening of a round-table meeting on domestic violence to promote research and formulate strategies. The Expert Group Meeting on Violence in the Family, with Special Emphasis on its Effects on Women, was held, accordingly, at Vienna in December 1986.

This resulted in the resource manual "Strategies for Confronting Domestic Violence". I have this document available if honourable members would like to take advantage of the information it contains. It must be quite clear to all honourable members that there has been a great deal of talk on this most serious issue. Unfortunately, despite the years of talk, we are not breaking down the barriers that still exist; we are still not reaching the situation where women do not personally feel that they are to blame if they are sexually violated or sexually assaulted. Women are still not reporting the assault to the police. As the tables in our report indicate, and as I said earlier, regrettably in the overwhelming number of cases their reason for not reporting is that they feel ashamed.

This is a tragedy because there is no reason for any woman to feel ashamed if she is sexually assaulted. This is something we cannot stress too strongly, particularly those of us who have children or grandchildren. This is something our granddaughters ought to be made well aware of: if they are unfortunate enough to be a victim of sexual assault, they should have no hesitation in telling their parents, relatives and the police. By so doing they will help other women, particularly those who are less knowledgeable and perhaps even less courageous.

The Standing Committee on Social Issues, as members well know, is still investigating this problem. In our first report on this subject we have made 11 specific recommendations. We hope the Government will take them on board and implement them soon, and not wait until our second report is ready. I hope this report does not suffer the fate of so many others: praised at the time it is tabled and then left to gather dust on a library shelf. I hope the debate on this report and the wide range of views that have been expressed will convince the Government of the urgent need to ensure that the recommendations are endorsed and put into practice.

I look forward to part two of the inquiry, which will look at other issues, including gender inequality and ritual abuse - something we learnt a little more about when we visited the Sydney Rape Crisis Centre. It was disturbing that this abuse was brought to our attention by the workers there, who believe this ritual abuse is increasing. To me this is very frightening and something the Parliament will have to pay great attention to. However, we also have to look at the issue of offender rehabilitation. There is no possibility that all offenders will be locked away out of sight and out of mind for the rest of their lives. That is something society will have to come to terms with. Rehabilitation is essential. Also we will report on the attitude of the judiciary to sexual violence.

Regrettably, many of the recent statements of some judges make it appear that patriarchal attitudes on this matter are still alive and well. There are judges in this State and in other States of Australia who need to take a wider view of the problem and to be the subject of judicial re-education. I also welcome the input of members of the public, including professionals in the field of sexual violence, to the second report. I look forward to reading their comments on the report and the debate. I wish to congratulate the committee secretariat - Dr Jennifer Knight, the committee director; the two project officers, Alexandra Shehadie and Glen Baird; and Heather Crichton and Annie Marshall. I am sure honourable members will agree with me that the committee could not function without this professional support. We are lucky to have their expertise and their dedication.

I hope the committee's next report will provide a focus for delegates to the Fourth World Conference on Women in Beijing in September 1995. One of the nine priority areas at that conference will be to discuss the implementation of policies to prevent, control and reduce violence against women and girls in the family, in the workplace and in society generally. In New South Wales women should be well placed to take authoritative documentation to Beijing, because by that time the committee's second report will have been tabled and it will have received further input from researchers and experts in the field.

The reports will cover all the priority aspects, and the committee should be able to make a positive contribution to the Beijing conference. By so doing we will gain respect for the Standing Committee on  
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Social Issues, of which I am proud to be a member, and for the work done by our Parliament. During the media backlash against upper Houses - when even members of this Chamber have been foolish enough to state that the upper House does not fulfil any useful function and should be abolished - the more that the sterling work the committees do can be publicised at a national and international level, the more that honourable members will be able to hold their heads up. The media speculation that the upper House is a waste of money and time to the taxpayers of the State will then be demolished as the myth it is. It is possibly as dangerous a myth as the myths listed in the report - that women ask for violence, they ask for sexual assault, and if they are assaulted it is their own fault. This report lays those myths firmly to rest.

**The Hon. K. J. ENDERBURY** [11.3]: It gives me great pleasure to speak to the report because I regard the task given to the Standing Committee on Social Issues as the most important task it has been given. The untold damage caused to many thousands of women in Australia by sexual assault is an ongoing problem that will continue for generations unless we come to grips with it. The work of the committee will go a long way towards alleviating the situation. First, I thank all the staff of the committee for facilitating the investigation and for the many hours of work they put into preparing for the overseas investigations.

Because of the international nature of the report it was imperative that the committee should go to the heart of the problem, the international crime survey that stated that the incidence of sexual assault in Australia was the

worst in the world. The committee has now found through its own investigations that the survey was not only misleading but was totally wrong. I also thank my fellow committee members for their co-operation, help and dedication in preparing the report. The report was unanimous, which speaks volumes for the co-operation, dedication and serious way in which the inquiry was undertaken by all members of the committee. The committee's terms of reference make interesting reading, and they are worth repeating. They state:

That the Standing Committee on Social Issues examine and report on:

1. the European Community 1989 Crime Survey which claimed that, of 14 developed countries surveyed, Australia reported the highest level of sexual incidents (sexual incidents included sexual assault and offensive sexual behaviour);
2. research into sexual violence and other related issues;
3. any discrepancies in that research; and
4. emerging issues in the area of sexual violence.

At an early stage the committee determined to divide the report into two parts - one part dealing directly with the international crime survey, which is the subject of this report, and the other dealing with the next report, which will consider international methods of dealing with the problem of sexual violence. After the committee deliberates and investigates further, I am sure the next report will contain many worthwhile recommendations to assist governments to alleviate the problem, if not to completely eliminate it. This report and the report to follow will be noted and referred to by government authorities and departments for many years to come. The survey showed that, of the 14 countries surveyed, Australia was No. 1 - the worst, in other words - and Scotland was the best. England and Wales were No. 12, and Northern Ireland No. 13. Australia appeared to be the worst, followed by the United States of America and Canada. However, the report says in part:

The Committee concludes that the validity of the results from the ICS surveys is severely limited by a range of factors including:

national differences in the way women interpret questions and cultural sensitivity to sexual offences;

technical problems including small sample sizes and low response rates;

bias introduced by the interview methodology, varying levels of telephone ownership and telephone culture and acceptability; and

methodological limitations inherent in victims' surveys, such as questionnaire design and conduct, memory decay, the timing of fieldwork, and the reliability and validity of collected data; and

Australia's mild climate and distinct urbanisation patterns.

The impact that such a wide range of factors had upon the data is such that the Committee believes the ICS results are unfounded and invalid.

That is the whole thrust of the report. The committee unanimously believes that the ICS results are unfounded and invalid. Members of the committee spoke to two important people about the survey - two of the three members responsible for the preparation of and the work involved in the report throughout the 14 countries. The first person we spoke to was Miss Pat Mayhew, the senior principal research officer for the planning and research unit in the Home Office in London. It was an enlightening interview. Though she was responsible for the report, from the outset she effectively rubbished the sexual assault component of it. She pointed out that minor differences in interpretation can mean huge differences in figures. She believed a comparative survey was an absolute waste of time and that it cannot form part of a sexual assault survey. She was very blunt about

that. She believed also that a substantial proportion of women simply will not tell the surveyor that they have been assaulted. In fact, the committee came across cases where women who were violently sexually assaulted had told no one. Others, of course, elaborated upon, and played up to some extent, minor assault matters that some women would pass aside as being of no consequence. That also tends to confuse survey results. Cultural differences play an enormous part in that sort of response.

Miss Mayhew also pointed out results that showed the United Kingdom coming out of it rather well. She cautioned politicians in the United Kingdom against using a survey, for the reasons I have given. Unfortunately, politicians being what they are, and because of the good position of the United Kingdom, they trumpeted the fact that things

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were quite good in England and Scotland - much better than in other countries. They were cautioned against doing that; nonetheless they did it. Miss Mayhew also pointed out that she believed that British reserve, as it applied on the telephone compared with other places, could have reflected a poorer response rate. She said that there was a difference between sexual assault and ordinary assault, but in some cases all may have come out as sexual assault cases. Again that tends to blur the issue.

The committee spoke to a person I mentioned earlier - one of the two people who were responsible for the survey - Professor Martin Killias from the Faculty of Law, University of Lausanne. I remember noting at the time that he was a sort of law genius because he is a part-time judge and extremely prominent in law throughout Switzerland. He was responsible for the methodology of the survey, but he also told us some interesting things. He said that there was a great difference in culture and style from one country to another and that in some countries other family members were present while the survey was being conducted, which certainly would have inhibited the answers given by the person being interviewed. He said also that it was a question of interpretation and that the way in which questions were worded could make an enormous difference.

He gave an enlightening example of how such a survey could be faulty because of the small sample size - a matter to which other members have referred. He pointed out that the survey established that in a 12-month period there was no car theft in Switzerland. He said that that was ridiculous; that some cars had been stolen but that every person who had been interviewed had not had a car stolen that year. That is a perfectly good example of the faults that can occur in a small sample size. The committee, after speaking to those people, then had to confirm what they had had to say. This led the committee to the conclusion that the ICS, although useful for the material it provides, cannot be used as a reliable guide. In fact, everyone we spoke to came to the same sort of conclusion. The surveys can be useful when comparing one period in different countries. For example, if the same survey was conducted in Australia in five years' time, those comparisons could be useful.

I think the committee effectively discovered that it is useless to compare one country with another. I urge all honourable members and all people interested in sexual violence to read the committee's report. It should, once and for all, put to bed the idea that the incidence of sexual violence in Australia is the worst in the world. It is not the worst by far. Of course, it might not be the best either. We have much to learn. I am sure the committee's further investigations, which will be revealed in the second part of its report, will deal more directly with the problem. I look forward to its further work and to the production of the report it will issue later in the year. I am sure all honourable members look forward to a solution to this terrible problem which is for ever with us.

**The Hon. J. M. SAMIOS** [11.14]: I wish to refer to chapter 1 of the valuable report produced by the Standing Committee on Social Issues entitled "Sexual Violence: The Hidden Crime". The committee produced an accurate analysis of the scope of sexual violence and its statistics in Australia, which enabled it to identify in the most useful form where this crime is committed. Furthermore, the committee has proposed ways in which it can improve the collection of data to make it more useful in the future. With an accurate picture of the problem we can implement measures to combat and eliminate sexual violence in our society.

I point out that there are intrinsic difficulties in compiling accurate reports on crimes of this nature where victims are often unwilling to respond to questionnaires or probing. It is a sad fact that as many as 75 per cent

of the victims of these sorts of crimes are often unable to report the crime itself but ultimately must live with its damage. The Hon. Elisabeth Kirkby said earlier that the matter is of grave concern to us all. However, I am confident that the improved surveying methods detailed in the report of the Standing Committee on Social Issues will give us a better picture, enable us to focus more attention on the hidden crime of sexual violence and raise community awareness.

I congratulate the committee and its chairman, the Hon. Dr Marlene Goldsmith, on the report and the steps the committee has recommended, which will further improve the committee's ability to gather data and analyse it to produce the most accurate report possible. If we are to be successful in reducing sexual violence we must have a good idea of the general scope and size of the crime. In this respect the committee's report will prove very valuable. I fully support its proposed recommendations. I just want to say a few words about one of the pertinent findings in the 11 recommendations relating to data on sexual offences and to Australia's position in the world. The report states:

The Committee therefore concludes that the media attention placed on the finding that Australia had the highest incidence of sexual offences in the world was unfounded.

It is good to note that Australia is not as it has been pilloried. The report also states:

The Committee does not consider it appropriate for the Government to take account of ICS results in considering policy options in relation to sexual violence.

It also stated:

The Committee appreciates the reasons for initially including questions relating to sexual incidents in the ICS. However, the Committee is of the opinion that, because sexual offences differ qualitatively from other crimes, it is not appropriate for questions relating to sexual incidents to be included in future international crime surveys until the identified methodological problems are addressed.

Much has been said about other aspects of the report. Reference was made to the patriarchal attitude of some countries and to the fact that judges need a wider view of the subject. We have taken heart from the wider input of the public. In congratulating the

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able and energetic chairman, the Hon. Dr Marlene Goldsmith, I place on record that the role of the Standing Committee on Social Issues epitomises an important part of the work of the upper House, which has drawn some attention recently. We should take pleasure in and comfort from the fact that this committee, in presenting its report, has not only enlightened the community on this issue but also highlighted the importance of the role of the upper House standing committee for the benefit of the constituency of New South Wales. Once again I congratulate the chairman, the Hon. Dr Marlene Goldsmith, the members of the committee and the staff who supported it on their able contribution.

**Reverend the Hon. F. J. NILE** [11.20]: I am pleased to support the report of the Standing Committee on Social Issues entitled "Sexual Violence: The Hidden Crime - Inquiry into the Incidence of Sexual Offences in New South Wales: Part I". I am happy to support the motion moved by Hon. Dr Marlene Goldsmith, the chairman of the committee, because, as honourable members know, I am also a member of the committee. The question the committee investigated was challenging. However, it is only part way down the track and a great deal remains to be done. The report is valuable and will provide an accurate basis for the next stage of the committee's investigations and inquiries.

As other honourable members have said, the inquiry was generated by the heavy media publicity in 1992 of the international crime survey. The survey ranked the incidence of sexual offences and violence against women in Australia as the highest of all the countries surveyed. The community and members of Parliament were shocked. The headlines led the Minister for Community Services, the Hon. Jim Longley, to ask the Standing Committee on Social Issues to investigate whether the results of the survey as presented by the media



had any basis of truth. In the course of its investigation the committee found that there were many problems with the international crime surveys conducted in 1989 and 1992 but that the media were reporting - even though they sensationalised the results - what they believed to be the facts.

I suppose it is hard to blame the media. They are often accused of sensationalising information and not taking the time to cross-check the information and get it in context. Such sensational reporting causes women unnecessary concern. Though the survey was inaccurate, it does not mean that we should say or should be tempted to say that there is no sexual violence in our society. There is sexual violence in all societies, but its extent would vary from society to society. It is a major problem in Australian society. As the committee moves on to the second part of its inquiry, it will further investigate the incidence of sexual violence. I hope it will look at prevention and make recommendations to the Parliament that can be implemented by the various ministries involved, because it is not a single issue.

Sexual violence in many ways involves the police and their activities, the Attorney General and the law, and the Minister for Health because sexual violence creates health issues. I believe the committee's investigation will have an impact on the Government and, through the Government, a positive impact on our society. There will always be debate on the causes of sexual violence in our society. Some honourable members have taken the opportunity in this debate to present their particular points of view. I have never argued that there is a single cause for sexual violence in our society - for example, the availability of pornography. But it is also accurate to say that no one in his right mind would suggest that pornographic material that presents women, and even teenage girls, as sex objects does not play a major role in what is happening in western societies, where the material is more available than it is in the Middle East or in some Asian nations.

As honourable members know, sadly, the *Daily Telegraph Mirror* criticised the committee's investigation. I believe it was important for members of the committee to investigate at firsthand sexual violence against women and not just read material. The committee agreed that four members should undertake a study tour of the United States of America and Canada. Two members travelled through the United States, two went to Canada and two continued on to investigate sexual violence in Europe. I was selected by the committee and, together with the chairman of the committee, the Hon. Dr Marlene Goldsmith, visited a number of centres in the United States and met with many groups. I thank the committee staff for organising the trip in such an efficient manner that maximum value for the expenditure was achieved. Overseas airfares and accommodation cost the Parliament a great deal.

I believe that not one dollar was wasted in our inquiry. When the final report is produced it will prove to be of great benefit to our society. We were able to meet with a range of authorities, from attorneys general to police officials. We looked at law and order but also at the other side of the coin. We met with important women's groups at the front line of the battle - the targets - and women's groups that had an intense interest in the issue. They are working on the problem and we benefited from the information and the views that they were able to share with us. The United States Bureau of Census, which administers the national crime victimisation survey for the United States Department of Justice and the Bureau of Justice and Statistics, confirmed the alarming number of cases of sexual violence. But the information we obtained from the bureau and elsewhere showed that the international crime survey data was flawed and that Australia did not rate first or second in the world on sexual violence.

We met people from various authorities, including the United States Bureau of Census, and other representatives, particularly Associate Professor Jim Lynch from the Department of Justice, Law and

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Society at the American University in Washington. He had conducted a detailed investigation of the international crime survey to ascertain whether it was accurate and, if errors had occurred, where and why they had occurred. Some of the points he made included the sampling error - because it was such a small survey of, in some cases, only up to 2,000 people - the non-response rate; the failures of recall; the telescoping effect of the way in which the survey was designed; and the different cultural values in various nations.

If one were to ask a woman in Iran and a woman in a western society such as Sydney or New York whether she has been sexually harassed or assaulted, the responses, because of the cultural conditioning, would vary. Perhaps a greater degree of reporting occurs in western society because it has become more open, though I believe that the incidence of reporting is but the tip of the iceberg; only about 10 per cent of rape cases are reported. That can be substantiated from many cross-references. Even so, more of those types of cases are reported in Australia than in societies with different cultures, because of their nature. It may appear that more rapes are reported in the United States, Australia and the United Kingdom merely because women feel freer to bring these matters to the attention of the authorities, whether through a hospital, a rape crisis centre or by reporting to local police.

Those factors will distort figures in the future when comparisons of nations are made. It will not be easy to rank the nations. That will only be meaningful if one is able to compare nations whose people have similar lifestyles. It would be valuable to compare nations such as the United Kingdom, New Zealand, Canada, the United States and Australia as one group, and nations with different cultures - perhaps the Middle East, Asia and South America - in other groups. It may be interesting to see how the rankings would work worldwide, but I do not believe that it is worth while spending too much time trying to obtain a world ranking on a matter that is in many ways personal and emotive. In some societies, because of the culture, women would find it difficult to report an act of sexual violence. It might be difficult for such an act to happen in the first place, because women from nations such as Iran are, to a degree, confined to their homes.

Someone who went to a particular house to conduct a survey, met the husband at the door and asked whether the wife had been sexually assaulted would be given short shrift and would not get far with the survey. The person conducting the survey would not get past the husband or father at the door, who would regard it as an invasion of privacy, and to a degree rightly so because he would not understand that the purpose of the survey was not to embarrass him but rather to gather valuable information for the benefit of women in due course. One must go through various steps to gain the information, and it is not always easy in various cultures to have the openness that would allow an opportunity to speak to women, especially younger women, in their homes. The first obstacle is to gain access. The second is to get the information.

If questions were asked of a woman about whether violence had occurred in her domestic situation, and if her male partner was in the room at the time of the questions, the woman would be reluctant to tell the truth, because of a possible threat being directed at her by the male - who may have been the person who committed the assault. The information members of the committee gained in the United States, especially from the Bureau of Census, was valuable because in that country huge amounts can be spent on conducting surveys. It is not that money is not available in New South Wales, but comparable funds are not provided. The surveys carried out in the United States are probably the most extensive of any nation. That is principally because of the high living standards in that country and the size of the national budget. In the United States an annual survey is conducted and responses were received from 83,000 people above the age of 12 living in 42,000 housing units. There would be others who did not respond to the survey. Those who conduct the survey would have to visit each of those housing units.

The survey reported that 97 per cent of the households that were selected to participate did so. That is the point I sought to make about a more open society: it is easier in that situation to get the information one is seeking than it would be in a Middle East nation such as Iran, which would be at the other end of the spectrum. The most recent detailed survey conducted by the United States Bureau of Census, in 1991, confirmed the seriousness of the problem. This is a problem that the Parliament cannot and will not ignore. For that reason the Standing Committee on Social Issues investigated the matter. The survey in regard to victimisation found that persons aged 12 years or older living in the United States experienced 34.7 million crimes; 6.4 million of those victimisations consisted of violent crimes, such as rape, robbery and aggravated and simple assaults; the number of violent crime attempts increased by 11 per cent between 1990 and 1991; since 1981, the peak year for victimisation, crime levels had dropped overall; the number of violent crimes committed in 1991 did not differ measurably from the estimate in 1981.

We hear a great deal about rape, and all of us are deeply concerned about the incidence of rape. Even if

there were only one rape case, it would be of concern. I was surprised that, according to the United States surveys, the incidence of rape had not increased over the period 1973 to 1991. The point I make is that because of the way the media deals with the issue, it has become far more sensationalised; dramatic rape cases are given headlines. That gives the impression, which I had, that the incidence of rape increases dramatically year by year. It may be that the newspaper coverage of the crime has increased annually and caused distortion. [*Time expired.*]

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## **INDUSTRIAL RELATIONS (SICK LEAVE) AMENDMENT BILL**

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

## **PROTECTION OF CHILDREN FROM INDECENT IMAGES BILL**

### **Second Reading**

**Debate resumed from 3 March.**

**The Hon. FRANCA ARENA** [11.38]: Not only is today St Patrick's Day, it is also Bandaged Bear Day, which is conducted by the Royal Alexandra Hospital for Children. We should all compliment the children's hospital on its excellent work. The Protection of Children from Indecent Images Bill is a private member's bill that was introduced by the Hon. Dr Marlene Goldsmith. Its stated aims, which are admirable, are to protect our children - and they are all our children - from exposure to images of a sexually degrading, violent or otherwise unsuitable nature displayed in connection with publications for sale or distribution at shops and other public places. I am sure all honourable members agree with that objective.

Children are the future of our country. Though most will tell us that children need an enlightened and open upbringing, few would accept that exposure to pornography will be of any benefit to them. I certainly do not agree with the proposition, and though I accept children should be given sex education, I believe it should be given in a sensitive and loving way. Sex is an important part of our lives and should not be degraded by pornography. What child could gain from looking at images of women on their knees in bondage, used as tables for men to put their legs on? That encourages a distorted, demeaning opinion of women.

In Europe it was common for men to use the phrase, "All women are whores except my mother and my sister". If this is the way we want our boys to think, we should continue to expose them to demeaning images of women. Pornography depicts women as objects and, therefore, suggests that they are inferior. The practices of female genital mutilation, the binding of feet, and the use of chastity belts, of which I have spoken recently in the Parliament, are the consequences of women being regarded as objects, inferior people, who must be dominated and put in their place by men. I am sure all members of all political parties share my disgust for such opinions.

I shall now refer to positive aspects of the bill, which does not attempt to ban the sale of publications, merely to restrict their access. I shall refer later to Opposition concerns about the bill. Removal of pornographic and offensive images from general viewing would mean that no member of the public - child, adult, male or female - is subjected to such images against his or her will. Corporations, in particular heads and managers of corporations, will be also liable to prosecution. Therefore, they may have to modify existing publications to conform to the bill. There is a substantial body of literature that identifies a link between violent sexual imagery and sexual assault. Though there are no studies to prove the pornography-rape nexus, literature I have read shows there is a nexus. The Hon. Dr Marlene Goldsmith issued a press release which states:

In Hawaii in 1974, restrictions were placed on the sale of pornographic material. Rape figures fell for the following three years.

The restrictions were then lifted, and rape immediately increased. The restrictions were reintroduced.

We know in Australia that the incidence of rape has grown as a result of increased reporting and an improvement in the attitude of police towards rape victims. Until a few years ago - and certainly 20 years ago - women who reported rape to the police were often treated like the perpetrator, not the victim. However, data is now available to show the nexus between pornography and rape. It is important to note that the bill is in line with equal employment opportunity legislation preventing sexist material being displayed in the workplace, and it has received significant support among women's groups.

The bill, however, has some shortcomings. It will be seen by many people as an act of censorship. Though some people may not choose to view or read the publications, restricting a person's right to do so is offensive to them. The new national guidelines for display of printed matter cover most aspects in the bill. Many of my colleagues have been asking whether the legislation is really necessary and who will decide the meaning of ambiguous words contained in the bill. At first instance one doubts whether police are qualified to decide what is of serious, artistic or scientific value. Certain clauses in the bill give rise to potential problems. Clause 4(1) states:

A person must not display in a public place a publication containing a sexually degrading or sexually violent image, unless the image, because it is hidden by a cover or is displayed on a rack or other device, or for some other reason, cannot be seen except by handling the publication.

This appears reasonable and may be included in the new national guidelines for display of printed matter issued in July 1992. This clause may include restriction of certain works of art. Clause 4(3) states:

It is an defence to a prosecution for an offence under this section if the defendant satisfies the court that the publication concerned was not displayed for a commercial purpose.

Many honourable members regard this measure as obscure. Does this mean that galleries and or museums are exempt? Are they operating for commercial purposes? Clause 5(2) states:

Nothing in this section prohibits the display of any publication in a restricted publications area, in an area that is by law inaccessible to children, in an art gallery or in a museum.

That subclause also is somewhat vague. On close reading it suggests that art galleries will now be required to have restricted access areas.

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**The Hon. Dr Marlene Goldsmith:** If the honourable member reads the bill, she will note that art galleries are specifically exempt.

**The Hon. FRANCA ARENA:** I accept what the honourable member has said. Also, I question why a child is defined in the bill as a person under 10 years of age. Surely children of 11 years of age are not a suitable audience for this material! All of the associated problems of defining a public place will be encountered. For instance, according to the bill, a vehicle comes within the definition. Will private homes be exempt? The measure is unclear and not well defined. Although corporations are liable to be prosecuted, the problem that will result will be individual retailers being targeted. Before I decided to speak in this debate I visited two or three newsagents in my area.

Though one strongly supported the bill, the other two expressed great concern that they would be prosecuted. They thought the bill was unnecessary because they thought they were taking enough precautions so that material was not on display where children could reach it. Image, as mentioned in the bill, would appear to include artwork. What does it mean? Surely legislation should not unnecessarily infringe upon this area. I recall that Reverend the Hon. F. J. Nile asked the vice squad to enter an art gallery to cover a painting entitled

"Stupid as a Painter". Such action is unwarranted and, generally, would not be supported by members of this House.

**The Hon. Elaine Nile:** Did you see the painting?

**The Hon. FRANCA ARENA:** I did not see the painting.

**The Hon. Elaine Nile:** You should.

**The Hon. FRANCA ARENA:** As there is unanimity that the Standing Committee on Social Issues has done an excellent job on community issues, I move the following amendment to the motion that the Protection of Children from Indecent Images Bill be read a second time. I move:

That the question be amended by the omission of the words "now read a second time" with a view to inserting instead "referred to the Standing Committee on Social Issues for investigation and report".

Last Thursday and again today honourable members spoke about the excellent job done by the Standing Committee on Social Issues on many issues ranging from adoption to sexual violence. The committee is representative of all parties in the House - its membership comprises three Labor Party members, three members of the Liberal Party, two National Party members, one Call to Australia representative and one from the Australian Democrats. The committee is truly representative of the broad views of the community on this important issue. References to this committee is the best way to examine such issues in detail, to determine whether in a more open society such material should not be censored unnecessarily, or whether we are too permissive and the sale of such material should be restricted. Such an inquiry would give an opportunity to those who support or oppose the bill to have their say.

The views of the three newsagents with whom I spoke is not valid reason for me to support or oppose the bill. I hope members will support my amendment. These issues should be looked at in more depth. All parties should have an opportunity to express their views. The record of the social issues committee shows that in most cases it has produced a majority report and in few cases a minority report. Those in the majority or the minority on a particular view were not necessarily members of one party or another; they were from all parties. We agreed to disagree. The members of the committee are engaged in valuable deliberation and they leave politics outside the door. They try to work as representatives of the community and to express community views. I hope all members will support my amendment.

**The Hon. J. F. RYAN [11.55]:** I have much pleasure speaking to the bill. I do so largely because of the extensive work which I know has been put into its drafting by my colleague the Hon. Dr Marlene Goldsmith. She has researched this matter extensively. Within the community at large, on radio and at a variety of meetings at various places she has been researching and discussing this matter extensively and inviting responses. It is no secret that the honourable member's bill has been circulated extensively throughout the Parliament on previous occasions. She accepted changes and suggestions made by members of this House prior to introducing the bill to this House. An enormous amount of work has gone into the bill. Many people, other than members of this place, have expressed considerable support for the bill and what the honourable member is seeking to do.

The bill raises a number of issues which should be taken seriously. The bill - as is obvious from its title - seeks to protect children. No objective is more important for members of this House than the future stake in life of our young people. Any proposal which challenges us to look at the needs of children should be viewed seriously by all members. I am happy to look at the details of the bill to assess whether it might contribute to a better upbringing, heritage and environment for our children. As a member of Parliament that objective has high priority and is shared overwhelmingly by all members of this Parliament regardless of political persuasion.

The purpose of the bill, in simple terms, is not to ban or prevent the sale to adults of any material which they can currently purchase. In that respect the bill does not have any impact on freedom of speech. Almost

every publication which currently may legally be sold in the State of New South Wales will continue to be legal for sale in this State. The only restriction the bill seeks to place on that material is the manner in which it is displayed for sale. The bill requires that such material be displayed so that it does not have an impact on those who do not wish to buy it and so that those people are not exposed to the material. The bill seeks to enforce a freedom of choice for those

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who do not wish to view such material. That is a freedom of choice which I, as a liberal, must also find within myself a need to respect.

Another purpose of the bill is to protect children from what is called soft pornography in such well-known magazines as *Playboy*, *Penthouse*, *People* and other publications of that nature. The bill is not an attempt to deal with violent pornography but with pornography which is said to be sexually explicit. The lengthy discussion that has taken place today about violence and pornography is not relevant to the debate. The bill seeks to focus on pornography which is explicit but not necessarily associated with violence. This House needs to ascertain whether there is damage in allowing the display of sexually explicit material which is not associated with violence. All honourable members will agree that material associated with violence ought to be severely restricted. This bill seeks to deal with material which is sexually explicit, though not necessary violent.

**Debate adjourned on motion by the Hon. J. F. Ryan.**

## QUESTIONS WITHOUT NOTICE

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### OMBUDSMAN INVESTIGATIONS OF POLICE OFFICERS

**The Hon. M. R. EGAN:** My question is directed to the Attorney General. Is he aware that a case against two police who allegedly assaulted a Vietnamese man cannot be investigated by the Ombudsman because of a deficiency in section 121 of the Police Service Act? Will the Minister assure the House that the section 121 loophole will be amended so that the Ombudsman will have power to investigate police who commit criminal offences?

**The Hon. J. P. HANNAFORD:** I am aware of the matter to which the honourable member refers. It is my recollection that when it was first drawn to the attention of the Parliament by a report of the Ombudsman before last Christmas, the Government indicated it was proposing to proceed with an amendment to the legislation to overcome the problem raised by the Ombudsman. As the honourable member would be aware, the practice of the lower House is that, other than with the leave of the House, legislation is not dealt with during the Address-in-Reply debate. I understand legislation to deal with this matter will be introduced into the Parliament this session and will be brought to the attention of the Legislative Assembly shortly.

### DISTRIBUTION OF CONDOMS IN PARLIAMENT HOUSE

**Reverend the Hon. F. J. NILE:** Mr President, I wish to direct a question to you in your capacity as President. Are you aware that free condoms are being distributed in Parliament House under the WorkCover Authority? Did you authorise that distribution of condoms within the parliamentary precincts?

**The PRESIDENT:** Order! I am aware that this morning the Minister for Industrial Relations and Employment, the Hon. Kerry Chikarovski, was the parliamentary host for a function in the Strangers Lounge area. This function, which I understand related to the WorkCover Authority, was authorised by Mr Speaker and me in accordance with the normal procedures for such functions. Neither Mr Speaker nor I were aware that it was intended to distribute condoms at that function, so we were not in a position to authorise that distribution

or otherwise. However, in view of the attitude on this matter taken by quite a number of members, both in this House and another House, the situation certainly could have been more delicately handled by the parliamentary host. I will take on board the complaints that I have received from a number of honourable members and communicate them to the Minister.

#### **YOUTH HOUSING RESOURCE PROJECT FUNDING**

**The Hon. ELISABETH KIRKBY:** My question without notice is directed to the Minister for Planning and Minister for Housing. Why has the youth housing resource project, put forward for funding by the Youth Accommodation Association, not been given funding under the local government and community housing program? In what way has the Department of Housing implemented the recommendations of the Ombudsman's report with regard to the local government and community housing program?

**The Hon. R. J. WEBSTER:** I thank the honourable member for her question. The Department of Housing has responded very positively to the Ombudsman's report, and I am informed that it has implemented most, if not all, of the Ombudsman's recommendations. It is fair to say that consultations between the Ombudsman and Mrs Kibble, Director-general of the Ministry of Planning, Housing and Urban Affairs, and Mr Andrew Cappie-Wood, the new Director of the Department of Housing, have certainly achieved a fair degree of satisfaction for the Ombudsman's office. I am obviously not immediately aware of the particular application mentioned by the honourable member. There would be thousands of such applications. However, I undertake to get back to her with details of it.

#### **COMMITTEE ON BOARDING HOUSES**

**The Hon. R. D. DYER:** Will the Minister for Education, Training and Youth Affairs, Minister for Tourism and Minister Assisting the Premier, representing the Minister for Community Services, Minister for Aboriginal Affairs and Minister for the Ageing, advise the House what action, if any, has been taken by the Government to establish the interdepartmental standing committee to oversee and co-ordinate the regulation and monitoring of boarding houses and service provision to boarding house residents, recommended by the task force on private for profit hostels?

**The Hon. VIRGINIA CHADWICK:** I thank the honourable member for his question and will refer it to my colleague for a detailed response.

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#### **HELICOPTER FLYING HEIGHT RESTRICTIONS**

**The Hon. R. S. L. JONES:** I ask the Minister for Education, Training and Youth Affairs, Minister for Tourism and Minister Assisting the Premier, representing the Minister for Transport and Minister for Roads, a question without notice. Is it a fact that the Helicopter Association of Australia has falsely led Parliament to believe that the lifting of the flight height from 500 feet to 1,000 feet that it has requested will protect many suburbs from increased noise, but will only be able to proceed if the Pymont heliport goes ahead? Is it a fact that the Environment Protection Authority has reiterated that such a proposal will only proceed if agreed to by the EPA and the Civil Aviation Authority working party, which will report in June and is quite independent of the heliport matter?

**The Hon. VIRGINIA CHADWICK:** I thank the honourable member for what is not so much a question as a reiteration of the honourable member's beliefs about and opposition to the heliport. This is a matter that the honourable member has had ample opportunity to debate; indeed he did so at some length in this House. The Government has an alternative view to that of the honourable member and the heights and applications for approval of any given heights were the subject of considerable debate in this House not so long ago.

*[Interruption]*

As the Hon. D. F. Moppett so aptly interjected, there are no second prizes. The honourable member is clearly entitled to his view and is also entitled to have me refer that question to my colleague the Minister for Transport, and I will do so.

### **HELICOPTER FLYING HEIGHT RESTRICTIONS**

**The Hon. R. S. L. JONES:** I have a supplementary question. Will the Minister answer the question as to whether the Helicopter Association told lies to influence honourable members, particularly Reverend the Hon. F. J. Nile?

**The Hon. VIRGINIA CHADWICK:** It does the honourable member no credit whatsoever to use this Parliament to assert that reputable organisations have told lies.

**The Hon. R. S. L. Jones:** They did.

**The Hon. VIRGINIA CHADWICK:** He repeats that assertion. That is an abuse not only of questions but of supplementary questions. I have already answered the question.

### **SCHOOL RETENTION FIGURES**

**The Hon. Dr MEREDITH BURGMANN:** My question without notice is directed to the Minister for Education, Training and Youth Affairs. Did her representative in another place, the Minister for Industrial Relations and Employment, yesterday state that New South Wales retention rates were 80 per cent? Did the official statistics released this year by her department and the Australian Bureau of Statistics show that New South Wales retention rates are only 66.6 per cent for public schools and 70 per cent for all schools - the lowest of any mainland State? Did she provide her with false information and cause the Minister to mislead the House?

**The Hon. VIRGINIA CHADWICK:** I thank the honourable member for her question. It provides me with the opportunity to talk of the proud record of participation of young people in education and training in this State. It is true that over 80 per cent of young people in New South Wales aged between 15 years and 18 years are engaged in education and training this year? The honourable member would be well advised to look to reports that have bipartisan support, such as the Finn review, a national report of some stature; the Mayer report; and the training reform agenda, which is strongly promoted by her Labor colleagues in Canberra. A basic tenet of part of that program is to break down the traditional boundaries that have existed to the detriment of students between schools and TAFE.

Considerable effort has been made by the Government in recent years to ensure that the boundaries between schools and TAFE and the world of work or university are broken down. This has been done by a number of mechanisms that I presume the honourable member would support, such as joint school-TAFE programs and industry studies programs. This year, for the first time in the history of this State and of the nation, students can do the higher school certificate in TAFE while continuing with vocational training. Therefore it is accurate to refer to participation rates in education and training of people from 15 years to 19 years. That figure is 80 per cent, and the Government stands by it. It is a figure of which I and the Government are proud.

Compared with the national figure of 74 per cent, 80 per cent in New South Wales looks pretty good. I am proud of this direction, because it has benefited students, who have greater choices and options and greater relevance in the choice of courses available to them in the senior levels of high school than ever before in the history of this State. The Government intends to continue with that work. This morning I attended a meeting



with the deputy director of the TAFE Commission, who gave me a verbal report of a survey that has been conducted about student satisfaction for the first group of students doing the HSC in TAFE this year.

Student satisfaction is high, and I predict that despite the carping criticism and negative comments from members opposite, if the program continues next year even more students will decide to exercise an option in year 10 to combine a higher school certificate with the capacity to obtain a tertiary entrance rank if they so desire with ongoing vocational training that is accredited in this State and nationally. That is a fabulous development. It is a fallacy to return to old culture. Given that the Hon.

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Dr Meredith Burgmann truly describes herself as a child of the sixties and a radical feminist socialist, it is distressing to find her trapped in this old ethos, this old conservative reactionary culture. She may have been a radical in the 1960s but on these matters she is in some sort of conservative time warp. She should break free from that and get with the educational movement of the 1990s.

That is the way of the future. It serves our students well by easing the pathways across the different traditional sectors; it suits and enhances their opportunities to obtain a job; it suits and enhances their opportunities to combine generalist school education with vocational training or a university option. New South Wales is leading the nation. That was recognised yesterday at Willoughby Girls High School - another fine public school - when the Federal Labor Minister, Ross Free, and I jointly launched a program based on the notion of reporting on key competencies. Again New South Wales is leading the nation, as is recognised by a \$4 million contribution to its work by the Federal Minister.

What is the honourable member on about? These are great developments that serve our students well, serve public education in this State well, and serve the community well. Those students will be better equipped to enter the world of work, or the world of further training or tertiary study. She should get with it, get out of her time warp and realise that again this State is leading the nation in education and training.

#### **WENTWORTH AREA HEALTH SERVICE BREAST SCREENING**

**The Hon. ELAINE NILE:** I address my question without notice to the Minister for Education, Training and Youth Affairs, representing the Minister for Health. Is it a fact that the Wentworth Area Health Service, which provides health care for two million people in Sydney's far western suburbs -

**The Hon. Dr B. P. V. Pezzutti:** It does not service two million people.

**The Hon. ELAINE NILE:** I am asking a question of the Minister. Is it a fact that the Wentworth Area Health Service, which provides health care for two million people in Sydney's far western suburbs - the most populous region of the country - has no permanent breast cancer screening and treatment clinic? Is the lack of access to breast saving services in this area causing women to undergo unnecessary mastectomies? What action is the Government taking to establish a permanent breast cancer screening and treatment clinic in the Wentworth health service area?

**The Hon. VIRGINIA CHADWICK:** I, and I am sure all honourable members in this Chamber, have followed this issue with interest, through media reports and other comments. This is probably a matter of more acute interest to female members but it is a matter of broad community interest and concern. My colleague the Minister for Health in another place was reported this morning as saying that if there are concerns about these matters, he is more than happy to investigate them. Whilst I am in no way trying to diminish the importance and seriousness of the issue, I find it difficult to comprehend that travelling for chemotherapy services or other forms of treatment to Westmead would be such an imposition that it alone was the factor that influenced a woman to undergo something as radical as a mastectomy, rather than other forms of treatment.

I watched with interest some of the interviews with affected women and, whilst that was a consideration, other matters such as the side effects of chemotherapy and other forms of treatment were on the minds of

women who felt torn between the need to support a family, their family and home-making responsibilities, and the side-effects of chemotherapy. I do not think it is as simple a matter as the Opposition and others would have us believe; many complex factors are involved. But I know that my colleague, as well as being an excellent Minister for Health, is committed to preventive medicine and community health. The Government has taken many initiatives that should be acknowledged, particularly with women's health.

I know that my colleague is clearly concerned by the assertions that have been made, and is looking at them as a matter of urgency. I would be delighted to inform the House later of any changes that he is considering, and of his response to this broad issue, which has not deserved the dramatic reporting that has occurred recently. Clearly, this is a huge issue concerning women. If I remember correctly, breast cancer affects about one in 17 women in Australia, so it is a matter of great concern to us all. That concern is certainly shared by my colleague.

### **CLEAN WATERWAYS PROGRAM**

**The Hon. PATRICIA FORSYTHE:** Will the Minister for Planning and Minister for Housing tell the House what future the clean waterways program has and what strategies the Government has in place to deal with continuing problems associated with water pollution in Sydney?

**The Hon. R. J. WEBSTER:** I thank the Hon. Patricia Forsythe for her question and for her continuing interest in all matters relating to the environment and the Water Board. I congratulate her on the fine work she is doing on the Joint Select Committee upon the Sydney Water Board. In October 1993 the Premier released a major public discussion paper on issues that we are now facing in planning for the future of the greater metropolitan region. The paper entitled "Sydney's Future" contains the New South Wales Government's strategy to develop a more compact city, arrest urban sprawl and provide better public transport, open space, and cleaner air and water. Sydney will continue to grow. Growth does not mean degradation if it is properly planned for.

We have demonstrated the truth of this during the past six years. The Government, since coming to office in 1988, has improved the quality of Sydney's

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waterways as a direct result of extensive environmental measures undertaken with the special environmental levy and as part of the clean waterways program. Beaches are now cleaner than they have been for decades. Tertiary treatment at sewage treatment plants along the Hawkesbury-Nepean River has reduced the level of nutrients in the river. Sludge is no longer dumped at sea. These are some of the very real results of the Government's environmental strategy.

Most important, we have introduced fundamental changes to the system of pricing for water - a move unanimously welcomed by environmental groups, if not by the Opposition, which is so far behind the times it is even trailing behind its own Federal Government on the challenges of microeconomic reform. For the first time consumers can pay for the water they use, which means they pay less if they use less. Usage pricing, combined with a major education campaign, can reduce the amount of water people use and thereby prevent the need for a new dam for Sydney. The environmental victory that this would represent cannot be overstated.

For the best part of 100 years governments have developed water and sewerage systems with little thought to their impact on our waterways. Whilst the past six years have seen real and substantial advances, we still have a long way to go. The document I launched this morning entitled "Choices for Clean Waterways" details possible directions for the Water Board's environmental program as we approach the next century. The community may become aware, for the first time, of competing demands which they will have to reconcile. For example, the Water Board will have to maintain and renew existing water and wastewater infrastructure; reduce wet weather overflow problems within the sewerage system; reduce the environmental impact of existing and future wastewater systems on inland and coastal waterways; provide an assured and high quality water supply for the future; and constrain customer charges.

Today all honourable members should receive a copy of the document entitled "Choices for Clean Waterways", which I hope they will read. I urge all to read that document. I acknowledge the attendance at the launch of that document of a number of my Government colleagues and the Hon. R. S. L. Jones. The document "Choices for Clean Waterways" puts wastewater planning in its economic, environmental and social context. It flags the next phase of the clean waterways program in which wastewater and stormwater management will come under particular scrutiny. The Government is setting out the problems as well as the costs, benefits and risks of the various options.

Some of these options offer new approaches, like taking treated sewage discharges out of the Hawkesbury-Nepean and redirecting it to areas which can better cope with it; treating sewage effluent to drinking water standard which, although expensive, opens the way for even more extensive recycling; and decentralising sewage treatment using small scale treatment plants to cater for local needs. Other options include recycling sewage effluent for use in factories, parks and gardens; using new and upgraded technology to improve centralised treatment; and using artificial wetland and holding areas to improve and control stormwater runoff. The options I have canvassed are in keeping with the recommendations of the meeting of the Council of Australian Governments in February 1994. That meeting endorsed the need to examine the management and ramifications of making greater use of wastewater in urban areas and strategies for handling stormwater.

Some of these options are relatively cheap and others are extremely costly. The community consultation process is about deciding on both environmental and financial priorities. The board's environmental investigations over the past four years on the sources and impact of pollution of our waterways will be invaluable. But the quality of waterways in Sydney involves many more players than the Water Board and results will come only from a community effort. This is not just a pipedream. The kind of outcomes we want from this process are already being achieved. Today a community contract for water quality in Berowra Creek will be signed. This contract will bind the signatories, including local government, State agencies such as the Environment Protection Authority and the Hawkesbury-Nepean Catchment Management Trust, to agreed goals such as a reduction in the levels of nutrients for Berowra Creek to be achieved within a specified period.

That contract, which has agreed goals, will be binding on all signatories. So honourable members can see that this Government is serious about real and accountable achievements. I acknowledge the role played in that community contract by the honourable member for Ku-ring-gai, Stephen O'Doherty. Without the community the whole process is pointless. Water pollution is a complex problem for which there is no single solution. Moreover, the environment is continually changing. As we resolve a problem in one area another assumes priority somewhere else. This must be factored into overall planning for the city and into decisions about how we live and the urban environment our children will inherit. I say with great sincerity that I urge all honourable members to read the paper entitled "Choices for Clean Waterways" and to participate in the community consultation program for preparation of the board's strategic plans for its wastewater and stormwater assets. The future of our waterways is something everyone can help us to determine.

#### **POLICE SERVICE FAMILY GROUP CONFERENCES FOR JUVENILE OFFENDERS**

**The Hon. JAN BURNSWOODS:** Is the Attorney General and Minister for Justice aware that the Police Service is about to start operating a new form of family group conferences for juvenile offenders in Marrickville and other metropolitan areas? Will this new program operate separately from the present system of community aid panels? Why is

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the Police Service going ahead with its new court diversion program at the same time as the Minister's department is preparing legislation to run its own community children's panels? Does the Minister agree that the juvenile justice system is in total confusion, with three different programs operating across New South Wales and another one planned by the Minister's department?

**The Hon. J. P. HANNAFORD:** The only confusion in the juvenile justice area is in the minds of the

members of the Labor Party, who are without initiatives on juvenile justice but were prepared to adopt the initiatives of the Liberal Party-National Party Government. But that, I guess, is only an endorsement of the direction in which this Government is going with innovative programs in this State. The New South Wales police adopted a family group conferencing program in Wagga Wagga, modelled on the program in place in New Zealand. The Wagga Wagga conferencing program was reviewed by the Standing Committee on Social Issues, which made certain comments about extending it, with variations, statewide. The Wagga Wagga program has been so successful that I understand the United States Government has allocated funds to review its success with a view to applying it on a Federal basis in the United States.

**The Hon. R. D. Dyer:** Wagga Wagga is focused on cautioning.

**The Hon. J. P. HANNAFORD:** It is a variation of the cautioning scheme. To the extent to which it has a legislative basis, it is based upon the legislative entitlement for the police to caution under the Crimes Act. The police want to expand the program, and I support that expansion.

**The Hon. Dr Meredith Burgmann:** Community aid panels?

**The Hon. J. P. HANNAFORD:** No, it is a cautioning scheme. It is not a CAP scheme. It is an expansion of the family group conferencing concept, but at this stage it is not entirely inconsistent with the direction of the recommendations in the report of the Standing Committee on Social Issues; nor will it be inconsistent with the directions in which I am looking under the green paper on juvenile justice. When the legislation is adopted the police schemes will be able to be adjusted to conform with that program. Family group conferencing is a welcome initiative. The fact that this Parliament has looked at schemes and the fact that I am looking at a legislative program should not delimit the police in proceeding with their pilot programs. I support the extensions of those programs. The FGC program is different from the CAP programs. The feasibility of continuing with the CAP programs again will not be inhibited by the expansion of family group conferences. Whether they continue to be utilised after a legislative family group conferencing program is in place is academic, and we will just have to wait and see.

**The Hon. Ann Symonds:** It will wither on the vine.

**The Hon. J. P. HANNAFORD:** It is possible that they might wither on the vine, but again it is not inconsistent with family group conferencing. One thing is certain: the Government is doing something about it; at least it is maintaining a program, it has enunciated a policy and it is pursuing the implementation of it. All the Labor Party ever does about any of these programs is carp about them.

## COMPOSITE CLASSES

**The Hon. R. T. M. BULL:** Will the Minister for Education, Training and Youth Affairs inform the House about the accuracy of the claims made yesterday by the Leader of the Opposition about composite classes in New South Wales schools?

**The Hon. VIRGINIA CHADWICK:** I thank the Hon. R. T. M. Bull for his very important question because I am absolutely incensed at the lies that were peddled yesterday. Clearly, I wish to defend the public schools of New South Wales that, for cheap political reasons, the Leader of the Opposition has termed educational slums. Schools in this State will have to wear the label educational slums bestowed by the leader of a major political party - a person who claims to care about public education in this State! It was not just a general and political swipe at public schools; he named schools, which will have to carry the tag of educational slums bestowed by the Leader of the Opposition.

I am very distressed, but I am not alone because the schools and the parent communities tagged by the Leader of the Opposition are not very amused by it. Though we in the political arena accept, albeit reluctantly from time to time, that things are said and done to score cheap political shots, most of us, I think, would not

wish to involve the children, their parents and the public schools of this State in cheap point scoring.

**The Hon. Jan Burnswoods:** Tell us some facts for a change.

**The Hon. VIRGINIA CHADWICK:** Obviously the honourable member opposite endorses the view of Mr Carr that our schools are educational slums. It is even more outrageous when clearly the Leader of the Opposition did not bother to check his facts. Nor did he pause to think what the effect might be on some of the schools he chose to malign in this way. Let us look at the facts, not at some distorted survey purported to represent 2,500 schools in this State. Composite classes have been around for ever. They have always existed in public education and New South Wales schools will always have composite classes. I have no difficulty with that. Educational research by experts of greater stature than members opposite say that composite classes are not educationally detrimental. For those of us who support the gifted and talented programs for the acceleration of gifted students, they are an educational necessity. In New South Wales composite classes in primary schools comprise about 30 per cent.

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**The Hon. Franca Arena:** Thirty per cent! Did honourable members hear that?

**The Hon. VIRGINIA CHADWICK:** I bear the honourable member's views in mind, and I will come back to that in a moment because clearly she thinks that is a problem. Yesterday the Leader of the Opposition named individual schools and placed the label "educational slum" on them. But worse than that - if that is possible - I recall debates in this House to which members of the crossbenches and members opposite contributed about what this Government should do and what assurances it should give in relation to the basic skills test.

Members, some of whom are present today, made speeches in which they sought assurances from the Government that it would not use the publication of basic skills tests to judge an individual school. Members opposite sought that assurance, as did crossbenchers, and it was given by the Government. It had been kept until yesterday, when the Leader of the Opposition in the other place named schools in New South Wales and judged them on their basic skills test results. That was in breach of an agreement sought by the Opposition. It was a most extraordinary breach, to use basic skills test results and say that schools had done badly based on those results. How do the teachers of the State feel? I shall be interested to hear what the Teachers Federation thinks about it, because it has strong views on the subject and realises that the agreement had been honoured by me, given that the promise was made in 1990 and broken in this Parliament yesterday by the Leader of the Opposition. That was a big mistake.

If basic skills test results are going to be bandied around, perhaps we need to work out how those results can be used in a more responsible manner than to denigrate schools for cheap political reasons, as was done yesterday. I was horrified. Mr Carr claimed that one western Sydney school, which he named as Castlereagh Public School, had only composite classes. He said the school was reporting literacy and numeracy problems. He went on to say that there is a western Sydney school in which all classes are composite, are taught in demountable classrooms, and that it reports below average basic skills test results in reading and writing. I should say, not just as the Minister but as one who is not alone in this Chamber in caring about the reputation of public educational schools in this State, that Castlereagh Public School has 96 students. One does not have to be a mathematical genius to know that if a school has classes for kindergarten to year 6 students, by definition that school has seven classes. How many students do Opposition members want there to be in a class? Of course that school has composite classes. The only alternative is closure.

**The Hon. J. P. Webster:** Labor will close the schools.

**The PRESIDENT:** Order! I cannot hear the Minister.

**The Hon. M. R. Egan:** They need more teachers.

**The Hon. VIRGINIA CHADWICK:** The Leader of the Opposition in this place says that it is not necessary to close a school such as Castlereagh but that more teachers are needed. How many more teachers?

**The Hon. M. R. Egan:** About 2,500 more teachers.

**The Hon. VIRGINIA CHADWICK:** An additional 2,500 teachers will not save Castlereagh Public School and 676 schools like it in this State. Members on this side of the House have been wondering how the wild, multibillion dollar promises made by the Leader of the Opposition in the other place will be met. I return to speak about Castlereagh Public School, because I will not have that school referred to as an educational slum. The school has composite classes; as I said, it has 96 students and could not survive otherwise. But is that outrageous? It has kindergarten-year 1 with 22 students; class 1-2 is a combined class with 28 students.

**The Hon. Franca Arena:** Too many.

**The Hon. VIRGINIA CHADWICK:** How many would the honourable member have? Class 3-4 has 22 students and class 5-6 has 24 students.

**The Hon. J. F. Ryan:** Not one of them is even remotely close to 30 students.

**The Hon. VIRGINIA CHADWICK:** Not one close to 30. In defence of this fine school, which has been so maligned, I should say it is not an educational slum. I do not intend in this House to refer specifically to its basic skills test results, but the principal of the school has advised that literacy and numeracy skills are above average at the school and that many of the school's year 6 students have gained entry to selective high schools. This, according to the Leader of the Opposition in the other place, is some sort of western suburbs educational slum. What about the kids in demountables who were referred to yesterday? The school has two demountable classrooms.

What Mr Carr failed to add yesterday was that the new buildings will be completed in June. Poor Mr Carr: caught out again with Labor lies. It would be quite amusing, if the Leader of the Opposition was not toying with something as serious as the public education of the children of the State. Mr Carr chose to name another school: Umina Primary School. That school was in for a bit of gratuitous insult as well. He said that the children suffered with numeracy and literacy problems because of composite classes. I should put a few matters on the record. Umina school has two straight kindergarten classes and a composite class but the kindergarten classes are straight classes.

**The Hon. Franca Arena:** Eight composite classes, did the Minister say?

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**The Hon. VIRGINIA CHADWICK:** I said a composite class. When that class was established the students were selected for their social and educational maturity. In addition, from the 100 extra kindergarten teachers that I announced about a fortnight ago - and this is already publicly known - Umina is to receive one extra kindergarten teacher. Again the Leader of the Opposition was not quite right. It is an absolute outrage - and this offended me most - that one of the schools that were slated was Newcastle East Public School. I declare a bit of a vested interest here. My daughter went to that school and, yes, she was in composite classes. Yes, I am from Newcastle, so I do have an interest in that school.

Rather than bag Newcastle East Primary School, I inform the House that it is the oldest continuing public school in Australia, having been established in 1813. When taking a bit of a shot at these schools the Leader of the Opposition picked a really wonderful school to try to bag: the oldest continuing public school in this nation. That is absolutely outrageous. I know that school reasonably well, as my daughter attended there for part of her primary education and I was involved with the parents and citizens groups there. I have nothing but praise for that school.

I am well aware through local knowledge and in my role as Minister that because of the declining population in the inner city and east end of Newcastle, in recent years the school has had difficulty maintaining a school population and many strategies have been tried. A conversation with the principal of the school would have revealed that part of the present difficulty is the decrease in students. The school has composite classes because, from memory, only 72 or 75 students attend that school. What class size would the Hon. Franca Arena advocate?

**The Hon. J. P. Hannaford:** She would close the school. Labor will close that school.

**The Hon. VIRGINIA CHADWICK:** She would close the oldest operating school in Australia if she had her way.

**The PRESIDENT:** Order! I am having difficulty hearing the Minister over the noise of those trying to assist her, and I am sure Hansard is also.

**The Hon. VIRGINIA CHADWICK:** Part of the difficulty experienced by the principal and teachers at Newcastle East Public School is trying to counter the negative carping of others about composite classes and suggestions that composite classes are educationally unsound and second-rate. I support and defend the schools that were maligned yesterday. I am proud, and will continue to be proud, of those schools. If the Leader of the Opposition has an education policy that states that composite classes are second-rate and develop educational slums, he can bear the public opprobrium for the 676 schools in this State that will close under any future Labor government.

#### **STAMP DUTY ON RURAL PROPERTY**

**The Hon. I. M. MACDONALD:** I direct my question without notice to the Minister for Planning and Minister for Housing, representing the Minister for Agriculture and Fisheries. Is the Minister aware of the serious problems created in the farming community by the application of stamp duty when the family farm is passed on to the next generation? Does the Minister know that this can cost up to \$40,000 for the average farm, which is a severe impost upon young families taking over the family farm and leads to a severe extra financial burden upon the farming community at a time when scarce capital resources are needed for continuing agricultural upgrading? Will the Government support the call by the New South Wales Farmers Association for a stamp duty exemption when the family farm is passed on to family members?

**The Hon. R. J. WEBSTER:** I thought I might take a little time to share a story with the House on the subject of inheritance. I find it almost bizarre that one of the leading lights of the socialist left in this Parliament should ask a question relating to inheritance. It brings to mind an incident that occurred in 1989. I invited a dear old friend, another factional colleague - though I am not sure whether he was a colleague of the Hon. I. M. Macdonald; I think he was in the other faction of the left - one Rodney Cavalier, a former Minister for Education in this State, to my electorate of Goulburn. We attended the centenary celebration of the Rugby Public School - not the Rugby Public School that some members might call to mind, but the public school of the village of Rugby, which is between Crookwell and Boorowa.

I had a close affinity with a character in Rugby by the name of Bill Berry. He had been a member of the Australian Labor Party for many years and used to hand out how-to-vote leaflets every election day. When I was the candidate he stayed at home because he and I were quite good mates. On an earlier visit to Rugby he said, "I would like to meet Rod Cavalier. He is a hero of mine". I said, "Bill, that is fine. I will organise it". When Mr Cavalier and I arrived at the function Bill was hovering around. I said to him, "Rod, I would like you to meet Bill Berry, he is a great supporter of yours". Bill walked up to the Minister and said, "Minister, it is a pleasure to meet you. I, too, am a socialist". Rod started talking to him. He said to Bill, "What do you do?" Bill said, "I have a small farm". Rod said, "When did you buy that?" and he replied, "I inherited it from my father". Rod said to him, "That will never do, Bill. We socialists don't believe in inheritance".

This is what makes me so curious about the question from the Hon. I. M. Macdonald. He is a well-known and outspoken socialist who, I am sure, does not believe in the principles of inheritance. Why he, of all people, would ask such a question is beyond me. However, I will seek an answer to his question from my colleague and provide the House with an answer in due course.

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### **BUILDING INDUSTRY TASK FORCE**

**The Hon. A. B. MANSON:** I direct my question without notice to the Attorney General and Minister for Justice. Does the Minister recall the recommendations of the building industry royal commissioner, Commissioner Gyles, regarding the building industry task force that: first, it should have a definite term of 12 months to prevent it becoming "institutionalised" and, second, that it should produce a regular report and have that report tabled in Parliament? Why has the Minister ignored the commissioner's recommendations, having allowed the task force a life of three years so far without tabling a single report?

**The Hon. J. P. HANNAFORD:** I have kept the task force going because it has been singularly successful.

### **LIVERPOOL COURT HOUSE**

**The Hon. J. F. RYAN:** My question without notice is addressed to the Attorney General, Minister for Justice and Vice President of the Executive Council. The honourable member for Badgerys Creek in another place has informed me of the poor condition of Liverpool court house. Is the Government able to remedy the situation?

**The Hon. J. P. HANNAFORD:** The honourable member looks after the interests of people in the Campbelltown-Liverpool area and would be aware, as is the honourable member for Badgerys Creek, the Hon. Ann Cohen, Chief Secretary and Minister for Administrative Services, of the condition of Liverpool court house. The Hon. Ann Cohen has made representations to me on this particular issue. The court house at Liverpool was built in the early 1970s and is in poor condition. Facilities for staff, prisoners and members of the public are either insufficient or need replacement. The security arrangements for prisoners at the court house are quite unsatisfactory.

As honourable members would be aware, Liverpool is a growth area. In recent years the caseload at that court house has increased by 27 per cent, with more Family Court matters being heard. Therefore, I am pleased to inform the honourable member, and I have been able to inform the honourable member for Badgerys Creek, the Hon. Ann Cohen, that I have approved as a matter of priority immediate expenditure of approximately \$400,000 for the upgrading of accommodation and facilities. This will improve the operational and security aspects of Liverpool court house. Those capital works will include renovations to provide more private interviewing space for parties to family law matters, to improve security, such as the now outdated intercom system between the courtroom and the holding cells, occupational and health standards, electrical services, lighting and general building maintenance at the court house.

I expect that the proposed work will be put out to tender by the end of the month and that the contract will be let by the end of April. I hope that the renovations will be completed by the end of June. The honourable member has shown an interest in court houses in western Sydney. Therefore, I indicate that approval has been given for the allocation of funds for the final stage of improvements to Penrith court house and Parramatta court house. When considering the needs of the Liverpool court house my attention was drawn to the need to improve the condition of other court houses in the metropolitan area.

Just before Christmas I visited Manly court house, at the instigation of Brad Hazzard and the Federal Liberal Party candidate for that electorate. I did not receive a single representation from the honourable



member for Manly about the condition of that building. That court house was in dire need of repairs and has been in that condition for years. One of the magistrates was working in an office that could be reached only through the corridors. If there had been a fire, that magistrate would not have been able to get out as the building was in such bad condition. When that was brought to my attention, being the Minister responsible, I went to look at the place, saw what it was like, and said, "Get it fixed up". We let the contract. Work started just before Christmas. The contractor worked right through Christmas - I am told he worked even on Christmas day. When the courts reopened at the beginning of the law year that court was operational.

I also received representations about Hornsby court house from Stephen O'Doherty, the honourable member for Ku-ring-gai. I visited and looked at that court house, and found it to be in similar condition to that of Manly court house. I have also approved the allocation of funds for improvements to that court house. Following my visit to Hornsby court house, plans have been finalised and the contract has been let for construction works in the sum of about \$426,000. Work commenced on that court house this week. When members of the Government make representations on issues, they get the work done. When members from western Sydney are able to be approached and to show that there are real needs to be addressed, I will address those needs. In view of the hour, if there are any further interesting questions, I suggest they be put on the notice paper.

### **SPECIAL ADJOURNMENT**

#### **Motion by the Hon. J. P. Hannaford agreed to:**

That this House at its rising today do adjourn until Tuesday 12 April 1994 at 2.30 p.m.

[*The President left the chair at 1.4 p.m. The House resumed at 2.30 p.m.*]

### **HMAS SYDNEY**

#### **Debate resumed from 3 March.**

**The Hon. R. B. ROWLAND SMITH** [2.30]: When I spoke last on this motion on 3 March I made reference to the record of Captain Joseph Burnett, the captain of HMAS *Sydney*. I also quoted what  
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Admiral Sir Ragner Colvin had to say about the three captains, Burnett, Collins and Waller. He made mention in a letter to the *Times* on 19 December 1941 of Burnett and he said:

He had much service in ships of the Royal Navy and came to me from them as my vice chief of naval staff a few months after the outbreak of war with high recommendation. These were not belied for his capacity to grasp a situation rapidly to formulate decisions was quite remarkable. His thoroughness, his appetite for hard work and his powers of organisation were invaluable and he had a special faculty for getting at the heart of a problem and stripping it of unessentials which is given to few.

The action of the *Sydney* and the *Kormoran* has been outlined by my colleague the Hon. D. F. Moppett. However, I want to say that the story of how *Sydney* was lost would appear to be straightforward. What induced Burnett to place her in the position where her loss in such a way was possible must remain conjecture. Burnett had the usual peacetime sea experience of a Royal Australian Naval officer on the permanent list, both in ships of the Royal Australian Navy and on exchange for the Royal Navy; but by reason of his wartime appointment at the Navy Office and employment of his first wartime sea command in routine duty in an area which for almost 12 months had known no enemy action, he lacked that experience which, gained in a recognised war zone, sharpens suspicion and counsels caution on all chance meetings.

Yet, as deputy chief of naval staff at navy office he had participated as a behind the scenes operator in the earlier raider attacks on or near the Australian station. He would have realised that a repetition was always possible and the fact that he went to action stations and approached *Kormoran* with his main armament and torpedo tubes bearing would seem that he had suspicions about her bona fides. If it were just a routine measure, other routine measures of greater importance in such a situation were neglected. Why Burnett did not use his aircraft, did not keep his distance and use his superior speed and armament, and did not confirm his suspicions by asking navy office by wireless if *Straat Malakka* was in the area, are questions that can never be answered.

Three days after *Sydney* was lost, but before her loss became known, HMAS *Devonshire* met the raider *Atlantis* in the south Atlantic. *Atlantis*, whose actions caused the deepest suspicions, claimed to be the Dutch *Polyphemus*, and the possibility, said the report of the encounter, of the suspicious movements and incoherent signals being due to our language and procedure had to be taken into account. From what little was known of the movements of *Polyphemus* it was not impossible for her to be in the area. In this doubt *Devonshire* kept her distance at high speed and wirelessly the Commander-in-Chief, South Atlantic, asking whether *Polyphemus* could be genuine. She had to wait for nearly an hour for a reply, which came with dramatic suddenness: "No. Repetition, No". *Devonshire* opened fire at 15,000 yards and *Atlantis* was destroyed - helpless, outranged and outgunned so far as the *Devonshire* was concerned.

It is probable that *Sydney* sank during the night of 19-20 November 1941. Not only did she suffer the torpedo blow below water but German survivors estimated that she received up to 50 shell hits on the waterline. She was not observed to blow up. The "occasional flickerings" just died to nothingness in the night. It is not surprising that there were no survivors, for after the punishment she received from shells and bullets and the ravages of the fires on board, it is unlikely that much that could float remained. It is therefore probable that the delays in receiving information from the wireless station of the receipt of the mutilated suspicious ship message from *Kormoran* and from *Aquitania* of the earlier rescue of survivors from *Kormoran*, unfortunate though they were, had no bearing on the ultimate fate of such of *Sydney*'s complement who survived the actual fighting.

Apparently the only material evidence of the loss of *Sydney* is an Australian navy-type Carley lifeboat which, damaged by gunfire and containing two Australian naval lifebelts, was recovered by HMAS *Heros* on 27 November 1941 - eight days after the action - in a position approximately 160 miles northwest of Carnarvon. This lifeboat is preserved in the Australian War Memorial at Canberra. On 13 November 1993 an article in the *Sydney Morning Herald* stated:

Mr Eric Falk was a 21-year-old naval engineer, below deck in the *Kormoran*'s engine room, when the *Sydney* was hit.

"I went up on deck," he says. "I saw the *Sydney* floating away, on fire. It was tragic, but war is a tragedy.

"There were only two options: we would go down or they would go down. In theory, they would master us with speed and power."

Mr Falk says the *Kormoran* crew always respected the *Sydney*, partly because the first HMAS *Sydney* had wrecked the *Emden*, the highly successful German light cruiser, in 1914.

Mr Falk was among the 318 German survivors. He spent five years as a prisoner of war, returned to Germany in 1947, married and came to live in Australia in 1951.

Now a retired engineer living at Blaxland, he has two sons, a police sergeant and a schoolteacher.

Mr Falk recalls with pleasure being met by his POW camp commander when he returned to Australia. He took to joining his Australian workmates for beers after work. He never volunteered much about his part in the war but he answered questions honestly. He said he was never made to feel uncomfortable.

News of the action and of the presumed loss of *Sydney* was publicly released in an official statement by Prime

Minister Mr Curtin on 30 November 1941. The next of kin had been informed by personal telegram three days earlier. Unfortunately, however, through failure to observe correct censorship procedure - of which both the naval board in Melbourne and the Government in Canberra were equally culpable - leakage of information occurred on 25 November and gave rise to rumours which circulated throughout Australia and caused deep distress to next of kin. The naval board was

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responsible for the failure to inform the chief publicity censor and to request an adequately worded censorship instruction as soon as doubt arose regarding *Sydney* on 23 November.

The Government in Canberra was responsible in that on 25 November, without informing or consulting the naval board, it instructed the chief publicity censor, Mr Bonney, who had succeeded Mr Jenkin in that appointment, to issue a censorship instruction: "No reference, press or radio to HMAS *Sydney*", which was circulated to all newspapers and broadcasting stations throughout Australia. This implied that some misfortune had befallen the *Sydney* and started rumours which spread rapidly and which, in addition to the distress which was caused, threw suspicion on the official statement when it was issued. Rumour did not end with the issue of that statement. For many months thereafter stories, either malicious or merely mischievous, of news received from survivors of *Sydney* in Japan continued to emerge and circulate, causing pain and distress in a number of Australian homes. I have much pleasure in seconding this most important motion, which reads:

That this House:

(1) recalls with great sadness the loss of HMAS *Sydney* on 19 November, 1941, off the coast of Western Australia;

(2) expresses its sympathy to the relatives and friends of the ship's company and particularly those of her commander, Captain Burnett, especially in view of the continuing mystery surrounding the exact circumstances of her loss; and

(3) commends the efforts of the Sydney Research Group and the Western Australian Maritime Museum to locate the ship and calls on the Federal Government to support them with financial and technical assistance as required.

I congratulate the Hon. D. F. Moppett on raising this matter. I believe it is important to try to overcome the controversy of the sinking of this great ship. I sincerely hope that the Federal Government will come to the assistance of these groups in an endeavour to locate this ill-fated ship.

**The Hon. ELISABETH KIRKBY** [2.43]: It gives me great pleasure to support the motion moved by the Hon. D. F. Moppett and to have had the opportunity to carry out some research into the loss of HMAS *Sydney*. When the Hon. D. F. Moppett asked me to speak on this debate I said, "I do not think I can. I know nothing about this subject". All I knew was that at the beginning of World War II the *Sydney* had been lost off the coast of Western Australia. He gave me a book and told me to read about it, which I have done. It is one of the most interesting tasks I have undertaken since I became a member of this Parliament.

It was like reading a detective story, trying to piece together, from information supplied by the author and from other information provided by the Hon. D. F. Moppett and the Hon. R. B. Rowland Smith, what had happened and why it happened. It was interesting to learn about what was happening in Australia in 1934, in the period when these events occurred, and about the political infighting about the need for Australia to be defended. In July 1934 one of the great Australian Prime Ministers - certainly one of the most controversial of all Australia Prime Ministers - William Morris Hughes, who was Prime Minister of Australia during World War I, published a booklet called *The Price of Peace*. He was convinced that Australia's defence forces had to be strengthened. He stated:

The talk that the British Navy will protect us is a delusion and a snare . . . Australia poses as a nation. The first duty of any nation is to provide for its own security.

Those were the views of one member of the Australian Labor Party. However, Eddie Ward, the member for East Sydney - another famous figure in New South Wales politics - held a totally different point of view. He

believed that spending money on defence was a total waste. He spoke at great length during the 1936 budget debate about the imbalance between finance available for defence and finance that was available for welfare and unemployment relief. He made a statement in Parliament that should be remembered. He was referring to vessels of the class of the *Sydney*; by that time she had been commissioned by the Australian Government. He stated:

I wonder if such vessels are really needed for the defence of Australia, or whether they are not required for the purpose of helping other peoples defend rich possessions in other parts of the world.

Obviously, even within the Labor Party at the time there was a great deal of controversy and disagreement about whether Australia should improve its defence services.

**The Hon. Franca Arena:** Was Billy Hughes still in the Labor Party at that time?

**The Hon. ELISABETH KIRKBY:** I am aware that he was not, and I thank the Hon. Franca Arena for her interjection. Eddie Ward made another speech in 1938. He said:

There are some who profess to believe that Australia is in danger, but I do not agree with them. I am of the opinion that Australia is in less danger from foreign aggression today than for many years past. The Government is indulging in a good deal of propaganda and is conjuring up imaginary foes.

At that time Billy Hughes had been promoted as Minister for External Affairs. Obviously he had much greater influence within the ranks of the Federal Government than Eddie Ward had simply as the member for East Sydney. In 1938 the problems that arose regarding the *Sydney* first came to the notice of the Government and the Admiralty in Great Britain. In October 1938 Captain Waller, who was the first commander of the *Sydney*, ran gunnery trials. He released the results of those trials in a secret memorandum dated 21 October 1938. Those trials discovered the following:

The primary gun control systems in H.M.A.S. "SYDNEY" *are extremely vulnerable to gunfire or bombs, even of small calibre, between the Director Control Tower or High Angle Control Tower and the Platform Deck.*

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The cables passed through areas where there was minimal armour protection and were subject to maximum blast. They were multicore cables and were not duplicated. They also ran through chambers that might be flooded with fuel oil as a result of shell blast. Captain Waller made this statement:

While No. 1 Low Power Room is out of action, the entire centralised Fire Control Systems go out of action irreparably. It will therefore be seen that for the main 6-inch control and the H.A. control the eggs are all very much in one basket, and a rather flimsy basket at that.

Captain Waller then dealt with secondary control, because primary control was knocked out by damage. He said:

... the Director Firing of Secondary Control was automatically lost.

In paragraph 7 of his memorandum he explained:

Group Control was unworkable, because the noise made it impossible to pass orders by telephone.

Paragraph 8 set out the deficiencies of local control, where individual guns had no means of distinguishing the fall of their own shot. So there were four different areas where he knew that the gunnery was deficient. He ended his report by saying:

The position of the Commanding Officer is therefore the uncomfortable one of desiring to close to an effective fighting range while knowing at any moment he may find his rate of hitting seriously reduced or even vanished due to very minor damage.

Of course, being the good naval officer that he was, he made suggestions for improvement. They were forwarded to Rear Admiral Custance, who agreed with them and said it was a matter of urgency to provide protection for primary control circuits and to fit an after director tower. This report was then forwarded to the Assistant Chief of Naval Staff, Captain John Collins. Cost estimates were prepared, but then, regrettably, the whole project died. The naval board wanted a dry dock and it also wanted a battleship. Eddie Ward was fighting naval estimates tooth and nail. He continued making lengthy speeches about imaginary enemies. It is said by the author of this book:

It is doubtful whether either the Prime Minister or the Minister of Defence knew, when they planned Australia's defence, that the three *Perth*-class cruisers had technical weaknesses which could make it difficult for them to carry out their allotted tasks and leave them vulnerable in an emergency.

Of course, this was at the end of 1938. In 1939 Germany annexed the rest of Czechoslovakia. By that time Prime Minister Lyons was a very sick man, and he died in office in April 1939. Then the war in Europe broke out. In its early days HMAS *Sydney* was sent to join the British fleet in the Mediterranean. On 18 July 1940 HMAS *Sydney* was in action off Crete. That action was very successful for HMAS *Sydney*. Indeed, Captain Collins was honoured by the King. He was created a Companion of the Order of the Bath. Commander Dalton and Commander Hilken received the Distinguished Service Order and Commander Nicholson of the *Hyperion* was awarded a bar to the Distinguished Service Order which he already held.

HMAS *Sydney* returned in triumph to Alexandria, where in those days the British fleet was stationed. The crew of the HMAS *Sydney* was delighted at the results of their engagement in battle. Even though on 27 July the crew had come under very heavy aerial attack - to the extent that when one bomb landed close to them it sent a torrent of water pouring through the ventilators into the wardroom; so much water that it swept all the crockery from the tables - they were happy because they had total faith in their commander. They really began to believe that they were so lucky that nothing would ever happen to the *Sydney*. In fact, the *Sydney* was regarded as the lucky ship; nothing was going to harm her.

Later that year, on 3 and 4 September, *Sydney* went into action under camouflage that made her look like one of the cruisers of the Italian navy. She was so convincing under that camouflage that an Italian motor torpedo boat patrolling outside Alexandria Harbour hardly gave her a second thought. When the motor torpedo boat was blown up by a direct hit from Alexandria the *Sydney* went in, flying not the White Ensign but the blue Australian flag. She was so convincing that at dawn on 4 September the British fleet emerged from behind a smokescreen and saw what it believed to be an Italian cruiser coming from an Italian harbour, and their guns were brought to bear. *Sydney* smartly whipped up the White Ensign and the crew chopped down the camouflage to make it very clear that the *Sydney* was a ship of the Australian navy, a friendly vessel and part of the allied fleet.

At that time Admiral Cunningham sent a signal to the *Sydney*, "Well done. You are a stormy petrel". After that event Stormy Petrel was one of the names by which the *Sydney* was known. In triumph it returned to its duties in the Mediterranean. Several months later, in February 1941, the crew returned home to Sydney in triumph. Naturally, as they approached Circular Quay, which is where they were to be berthed, the assembled people of Sydney welcomed the HMAS *Sydney* as one of the great ships of the Australian Navy and duly honoured her crew. The book explains that many honours were given to the crew and that many were mentioned in despatches. Among the other ranks, Chief Petty Officer Prior, Chief Petty Officer Silk, Chief Ordnance Artificer Keane, Chief Stoker Beaumont and Stoker Evans were all awarded the Distinguished Service Medal for their service on HMAS *Sydney*.

There were men on board who had been with the HMAS *Sydney* since the very beginning. There were also men on board who had served on the old *Sydney* and young men whose fathers had brought them up from infancy in the tradition of the ship in which they served. A few had been named after her. *Sydney*, to her

crew, was not just a warship: for many she was both home and family. This strong attachment to the ship was built upon by the media - the newspapers -

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for the benefit of the public. *Sydney* was back and it was believed that she could take care of the enemy ships, she would chase away raiders and there would be no more mines. People also believed that no other ship of the Australian fleet could have done so much to lift the spirits of the people of Sydney and Australia.

*Sydney* then went into dock for overhaul. Later she had to take up her escort duties after carrying out exercises in October 1941 at Fremantle. At that time there was another political crisis in Australia. After the Federal election of September 1940, the party numbers in the House of Representatives were so close that the balance of power was held by the Independents. So, it is not so unusual for the balance of power to be held by Independents; it happened over 50 years ago. This is not the first time in our history that it has happened in this Parliament.

The Independents in 1940 were Alex Wilson and Arthur Coles, and their position was such that they could decide which party should govern Australia. Initially they supported the United Australia Party, which was led at that time by Robert Menzies. It is interesting to learn that in June 1940, although the United Australia Party Government had outlawed the Communist Party, former members of the Communist Party still held high office in key unions. Apparently there were secret printing presses that were distributing clandestine publications, which in time of war was regarded as subversive material, advocating strikes and industrial disruption. Two of these men, Max Thomas and Horace Radcliffe, were gaoled as a threat to national security, and in protest they went on hunger strikes.

There was a very stormy budget debate that year and Menzies resigned; and Arthur Fadden formed a coalition government. Later that year, by September, the leaders of several unions apparently offered in writing to reduce the strikes if the Labor Party threw out the Government. Curtin was very angry about this document, and he released it to the press. He condemned the proposal as blackmail because it was his firm belief that all members of Parliament should use their influence to curb strikes, whichever party was in office. Australia was at war, and you could not have that sort of action when you were supposed to be defending your country.

It was possibly as a result of this action by Curtin, and the sort of euphoria that there must have been in the press at the time, that the Independents changed sides, the government fell, Dr Evatt became Attorney General, Norman Makin became Minister for the Navy, Eddie Ward became Minister for Labour and National Service, and Jack Beasley became Minister for Supply and Development.

**The Hon. R. D. Dyer:** Do you think history is about to repeat itself?

**The Hon. ELISABETH KIRKBY:** All these things occurred at a time when, of course, Australia was still to face the threat of the Japanese invasion; probably still believing, quite rightfully so, that there would be no possibility of the west coast of Australia being attacked because there was still this belief that Singapore would never fall, the British navy would always be in Singapore, and the British naval ships, therefore, would always be in the Indian Ocean. However, what seems to have happened at that time was that naval intelligence was very deficient. As you read, you discover that, for example, in early November in 1941, while on patrol duties outside Fremantle, HMAS *Yandra* challenged a ship that identified herself as *Cyclops*. *Cyclops* was not on the list of ships expected so *Yandra* closed with her - but she was indeed *Cyclops* and had every right to be there.

The questions should have been posed, and possibly were posed: why had *Cyclops* been omitted from the list of friendly ships that had a right to be in the area? And, if her name had been omitted, how many other mistakes had been made? The question was posed: if a British ship of her size, coming from a British harbour - Singapore - could be omitted, what about other ships, allied or neutral, coming from neutral ports? It was on that day, when this omission from the list of naval intelligence was discovered, that HMAS *Sydney* left Fremantle to meet *Zealandia* near Albany. Their duty was, on the afternoon of 5 November, to proceed to the rendezvous where they were to take over the escort duty of *Zealandia* from *Adelaide*.

At the same time, *Canberra* had left Fremantle to escort the *Queen Mary* and the *Queen Elizabeth* in the vicinity of the Cocos Islands. Also at this time, when these patrol duties were being carried out, HMAS *Sydney* had lost quite a number of her crew and they had been replaced by a large draft of trainees - mostly young men - from the Flinders Naval Training Depot. They were mainly from Western Australia, and practically all of them were making their first trip on a warship. I think it was believed at that time that the task of escorting a single ship through quiet, home waters would provide an uneventful training cruise and a very suitable way of preparing these young men for their life in the Royal Australian Navy.

However, what had happened was that although *Sydney* was overstrength, she was a bit shorthanded when it came to experienced crew. This, together with the fact that there were technical deficiencies in the *Sydney*, may have been one of the reasons for the tragedy that later occurred. *Sydney* was ordered to action stations, and this of course was the day that the final encounter with the German raider *Kormoran* took place. Before I was given this book, I think like many other people I was under the belief that HMAS *Sydney* had been sunk by a Japanese submarine; that was one of the rumours that apparently was circulating at the time and was believed by many people for quite a long time. However, there is no doubt that that is not the case.

There were no Japanese submarines in the vicinity. In fact, at that time, Japan had not even come into the war. But there were German raiders

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and the German raider that was responsible for the destruction and eventual sinking - we do not know quite what happened, but I think that is the best way to describe it - of *Sydney* was the German raider *Kormoran*. It was on 19 November 1941 that *Sydney* saw the *Kormoran* but did not know what ship she was and was not able to identify her. One of the reasons for that is that when her commander was given documentation by naval intelligence of what German ships might be in the area, he was given a copy of a photograph supplied to British warships in October 1941. It showed *Kormoran* as launched, empty and high out of the water, with four pairs of Samson posts.

When that photograph is compared with a photograph of the *Kormoran* when she was loading in Kiel, they look like two different vessels. If the commander of the *Sydney* had the photograph that had been supplied to British warships - and it is likely that he did - it would have been difficult, if not impossible, for him to identify *Kormoran* as a German vessel from the photographic evidence with which he had been supplied. According to this book, what happened after that is not known from any material available from HMAS *Sydney*. She was sunk with all hands, and all records were lost. The account given in the book is based on activities that were observed by the *Kormoran* crew, many of whom, including the commander of that vessel, were captured and held as prisoners of war in Australia.

The evidence has been pieced together from the procedures as reported by former *Sydney* crew or recorded in log books. In addition, researchers have had the opportunity to look at documents issued, the procedural orders and signals sent, as recorded in Archives. Some of the research is based on the character and personality of the officers. We do know that *Sydney* was returning to Fremantle. She had completed her patrol duty and was in no particular hurry; she was well able to meet her estimated time of arrival, with time to spare; if anything she was ahead of schedule. When the lookout reported a strange vessel ahead, *Sydney* raised her speed to close, it is believed because it was thought that would be good practice for the new members of the crew. The crew were called to action stations, as was the usual custom no matter how innocent another ship might look.

The chief yeoman of signals joined the officer of the watch on the port wing of the compass platform because *Sydney* had to alter course to give chase. The senior officers went to the director control tower and to the torpedo flat to supervise the training of the torpedo tubes. The other senior officer, Thruston, was not on the bridge because, by orders, in those days the commander's station was the auxiliary command post. The reasoning was that the two most senior officers could never be killed by the same shell if they were in different command posts in different parts of the vessel. It has been suggested that the ventilators were not turned off, complete watertight integrity had not been established, and not all damage and fire control parties were on

station.

It was later decided by researchers that because Captain Burnett was a gunnery specialist who favoured his artillery and believed that guns could do the job, and because it was seldom necessary to use torpedoes in a hurry, and it is possible he did not believe they were effective when the trail could be seen - and by day obviously that would happen - *Sydney's* torpedo tubes were trained but that the retaining forks remained in place. It was believed that if the tubes were needed it would take only a matter of seconds to retrieve the forks and therefore it was not necessary to do that at that time. As one reads the book it is interesting to learn that in those days the rules of war were very fastidiously observed. There was no question of firing without first making absolutely certain one was firing at the enemy - identifying that it was the enemy. It was rather like an old-fashioned joust between knights in the Middle Ages; not at all like the type of warfare we have become used to.

After a great deal of time had lapsed, in the belief that the *Kormoran* was a Dutch vessel - it was flying a Dutch flag - signals were exchanged between *Sydney* and the camouflaged *Kormoran*. This must have been very confusing for those aboard the *Sydney*. They had a portable anti-aircraft rangefinder on the bridge and had their own aircraft, which could have been catapulted, ready to take off. That aeroplane was made ready. The crew of the *Kormoran* could see the propeller of the plane spinning, and the pilot and the observer were waiting for the order to launch. *Sydney* signalled to the *Kormoran*, "What cargo", believing it was truly a Dutch cargo ship. Eventually the *Kormoran* answered "Piece goods". Then the commander of the *Kormoran* ordered his radio crew to transmit a signal by radio. However, they used a wrong signal because apparently the German ships had not quite worked out what was correct. They were asked to repeat the message. That did not help the *Sydney* very much.

The crew of *Sydney* believed they were possibly watching a Dutch ship known as the *Straat Malakka*. But the *Straat Malakka* did not appear on the shipping plot. So they went through the list of all the other raiders that might have been in the area at that time. Captain Burnett reviewed all of the information he had on raiders. He was quite certain that raiders A, B and C were not likely to be in the region, because it would have been impossible to change their appearance to how the *Kormoran* presented. He knew that raider F had been sunk, and believed that raiders D and E were reported to be home. In any event it could not be E, and D was supposed to be a steamer. He wondered whether it was raider G, but there was neither a photograph nor a silhouette of that vessel in the log of merchant ships.

He should have received a photograph and silhouette that had been issued by the Admiralty. However, that was still not sufficient for him to decide, so he determined that he would attempt to look at the *Kormoran* beam-on without the sun - which was on the point of setting - in his eyes. So the *Sydney* altered course to starboard. As time went by

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further signals passed between the two ships. Finally *Sydney* signalled, this time by lamp in morse code, "Give your secret call sign". Of course, that was the one question that the commander of the *Kormoran* could not answer. It was a question which, if the *Kormoran* had not been disguised as a British or Dutch ship, would not even have been asked. It was only because the commander of the *Sydney* believed that the *Kormoran* was an allied ship that he asked the question.

It was half past five on the evening of 19 November when the commander of the *Kormoran* gave the order to decamouflage. According to his log it was at that time that the Dutch flag was taken off and the German naval battle flag was run up in its place and all the camouflage was removed. At that point the anti-aircraft guns rose into place, the torpedo flap swung open and HMAS *Sydney* was travelling parallel with the *Kormoran* at the same speed, and almost level. Within 20 seconds of the order to decamouflage, the big guns of the *Kormoran* scored their first hits. The 3.7 had smashed the bridge and the two-centimetre anti-aircraft guns had cleared the crews from the torpedo tubes. HMAS *Sydney* replied with an eight-gun broadside, but it was a fraction too high and the shells whistled over the afterdeck and exploded in the sea. At that point the commander of the German vessel turned his ship 10 degrees to starboard to bring his torpedo tubes to bear.



An interesting battle plan showing the relative positions of the two ships appears on page 136 of the book, *H.M.A.S. Sydney: Fact, Fantasy and Fraud* - presumably this came from the log of the *Kormoran*. A problem that apparently happened in all naval battles fought during World War II was that most naval battles took place at a most impersonal distance; one shot only at a distant target. Of course, with the firing there was acrid smoke, blasts of heat, and the unpleasant reek of cordite filled one's nose and lungs. One was deafened by the roar of one's own gun and was shaken by the shuddering of the deck. If the result was seen at all, it was only as a silent puff of smoke, a flash of red flame and a fountain of water.

As the anti-aircraft guns swept the decks of HMAS *Sydney* and kept the torpedo tubes under fire, the German 3.7 poured shot after shot into the bridge. Even so, apparently at that time the aircraft, which could have attacked the *Kormoran* from the air, did not take off. Though the torpedo tubes on the port side of HMAS *Sydney* were trained, they could not fire, apparently because there had not been time to remove the retaining forks. The No. 1 gun hit the forward turret A, the No. 3 gun blasted the cover of turret B into the air, and the men below decks on the *Kormoran* related that they heard, "Cruiser is hit".

At that time the guns of HMAS *Sydney* were silent. This was probably because the concerns previously expressed by Captain Waller and Rear Admiral Custance and the pleas expressed by the Navy Office had been ignored by the Admiralty. The deficiencies in HMAS *Sydney* were exactly those foreseen. The result was that all central controls failed, the gunnery control and the communications system. Turrets A and B never fired again. For reasons that have only been the subject of conjecture, HMAS *Sydney* turned to port towards the *Kormoran*. I should like to quote this section of the book as follows:

It will never be known why *Sydney* turned. Commander Dalton in the engine-room no longer had contact with the bridge and was operating blind. She may have turned as the steering jammed, or if the port engine failed. At best, she could have been using only auxiliary steering, for the bridge was wrecked. Perhaps Commander Thruston had taken charge and wanted to bring the starboard tubes to bear. Perhaps the intention really was to ram, and it looked for a while as though she would succeed in crushing *Kormoran's* thin plates with her armoured bow. *Kormoran* could not raise another knot to avoid a collision.

As *Sydney* came across, she passed out of the arc of fire of guns 1, 3 and 4 . . . The bridge officers could no longer see the stern through the smoke pouring from the engine-room fire and the damaged funnel . . .

Whatever the reason for *Sydney's* turn to port, the starboard torpedo crew had their tubes trained and ready to fire when she came across, but with control circuits damaged and no proper rangefinding. The range had opened considerably before they sent a spread of four torpedoes towards the raider.

If the torpedoes had hit, it is quite possible that the *Kormoran* would have been sunk and, though badly hit and almost totally disabled, HMAS *Sydney* might have been able to limp back to Fremantle and it would be a different story today. In fact HMAS *Sydney* was still moving. The sun had set and it was estimated by the *Kormoran* that HMAS *Sydney* had taken a torpedo hit and an estimated 150 shells. She was on fire from in front of the bridge to the main mast. Flames were leaping and ammunition beside the guns exploded. Blazing fuel spread fires along alleyways and down companionways. Smoke and poisonous fumes of oil, paint and cordite poured through ventilators into the furthest parts of the ship.

If there was anyone left to give an order to stop or abandon ship, it could not be obeyed. The ship kept going on its last heading. Lifeboats had been blown to pieces; rafts and floats had been holed or blown overboard. Anyone who could have jumped from the ship would have had no better refuge than a few damaged unprovisioned floats to keep himself alive until daybreak. According to the men on the *Kormoran*, HMAS *Sydney* just drifted out of sight, a red glow fading into the horizon. Others spoke of a last sudden, silent flare, as though a magazine or petrol store had exploded at a great distance. The time was estimated to be about 2100 hours at the earliest. Some said that they could still see the glow about two hours after that. This was the last that was seen of HMAS *Sydney*. The author of the book described it as follows:

A blazing ship bearing her dead crew beside their weapons and household goods into the darkness beyond the rim of the ocean.

A Viking funeral.

Since that time more than 40 years have passed and there is another HMAS *Sydney*, and apparently there is another *Kormoran*. In June 1948 Prime Minister Ben Chifley introduced into Parliament the HMAS

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*Sydney* Replacement Fund Bill to divert the money collected for a new cruiser towards meeting the cost of an aircraft carrier. She arrived in Sydney in May 1949. This *Sydney* saw no naval service, but from September 1951 to January 1952 she joined the United Nations force in Korea. In 1962 she was converted to a troop carrier and made 224 round trips to Vietnam, beginning in May 1964. At that time she was called by her crew the Vung Tau ferry. One trip, on 19 November that year, brought her close to the site of the 1941 battle, and a wreath was cast upon the ocean in memory of her namesake.

The fourth *Sydney*, the latest generation, is a 3,605 tonne loaded-weight guided missile anti-submarine frigate built in the United States. She is designed to carry, as well as missiles, six torpedo tubes and two helicopters. But she is a single-screw ship which can be immobilised by fairly minor stern damage. She has an aluminium superstructure that has already been seriously damaged by a fire started by a minor electrical fault. It seems strange that after the experience of the first *Sydney* it is possible for people other than those in naval intelligence to be aware that an Exocet missile would send her up like a fire cracker and a shell splinter in her computer would cripple her. Like the earlier *Sydney*, she will be all right as long as she does not get hit.

The book goes on to describe what happened to the new *Kormoran*. Much of the book is about Captain Detmers, commander of the *Kormoran*, who did not die until 4 November 1976. He was a prisoner of war in Australia. He returned to Germany and lived to old age. Unfortunately, that was not to be the fate of those gallant men - the crew, captain and senior officers - on HMAS *Sydney* who gave their lives in November 1941. The preface to this book contains a most fitting statement with which I should like to end my remarks. Once again I thank the Hon. D. F. Moppett for giving me the opportunity to make this contribution to the debate. I should never have learnt any of this history if he had not asked me, and it made a very nice change from speaking only on legislation. The preface contains this statement from the *Adelaide Advertiser* of 1 December 1941:

If her latest fight should prove to have been her last, then she has met her end gloriously. She has rid the seas of a heavily-armed raider and placed all who sailed the sea in ships under a great and lasting obligation to remember her crew and honour them.

That is what we do in this debate today, and I am happy to do so as well on behalf of the Australian Democrats.

**Reverend the Hon. F. J. NILE** [3.35]: On behalf of the Call to Australia group I have great pleasure in supporting the motion of the Hon. D. F. Moppett concerning the loss of HMAS *Sydney*:

That this House:

(1) recalls with great sadness the loss of HMAS *Sydney* on 19 November, 1941, off the coast of Western Australia;

(2) expresses its sympathy to the relatives and friends of the ship's company and particularly those of her commander, Captain Burnett, especially in view of the continuing mystery surrounding the exact circumstances of her loss; and

(3) commends the efforts of the Sydney Research Group and the Western Australian Maritime Museum to locate the ship and calls on the Federal Government to support them with financial and technical assistance as required.

Other members have outlined the technical details of that loss as given by *Kormoran* survivors. However, reports by the survivors of what happened in that particular naval engagement during wartime must be treated with great care and perhaps suspicion. The survivors were crewmembers of an enemy ship which engaged HMAS *Sydney*, a ship of the Australian Navy. Evidence from the enemy is not given much weight during wartime. The accounts of the survivors of what happened are the only eyewitness evidence available, but I urge caution in accepting them as the complete true story. The loss without trace of HMAS *Sydney* and its total

complement of 645 officers and men is one of the great mysteries of the sea. More men were lost on that ship in one engagement than during the whole Vietnam War. The sinking of HMAS *Sydney* was a major disaster for Australia.

During World War II Germany lost larger ships than HMAS *Sydney* and larger complements of crew from among the various German battleships roaming the four seas of the world seeking to disrupt supply lines to Britain and the Atlantic convoys to Russia. Other nations lost more ships and men in that war, but for Australia the loss of HMAS *Sydney* was a tragic disaster. Australia needs its navy. During wartime people understand the need for the army, navy and air force, but during peacetime those services are disregarded, treated with disrespect and often become the centre of controversy. At present the navy seems to be getting its fair share of controversy in attempts to shift naval bases out of Sydney. One suggestion was to shift one naval section to Jervis Bay, Commonwealth territory that already has a naval presence in the former naval college and other activities. Protests are being made in an attempt to obstruct such a move.

In peacetime people give token support to the navy but do not want naval facilities near them. People must be realistic. The navy must have a base from which it can operate, with facilities to enable its personnel to live in normal surroundings. Many critics are content for service personnel to be shipped to the Northern Territory or some other barren place but are amazed at the difficulty experienced in attracting men and women to join the army, navy or air force. Service bases should be located near other amenities so that service families can live in homes in communities and enjoy a normal environment. That is very important. I urge the protesters to think twice about being totally negative in this regard; there must be some give and take in allowing the Australian army, navy and air force to operate from a satisfactory base - particularly the navy.

What happened to HMAS *Sydney* is a mystery. A number of books have sought to answer the mystery. I have closely followed the issue for many years, and I remember the various theories on why such a large, well-equipped and well-armed ship as

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HMAS *Sydney* could be totally destroyed with no sign of the ship or its complement of 645 officers and men. Some of the theories have some credence but cannot be proved. The original theory is that the *Kormoran*'s captain and men machine-gunned the survivors of the *Sydney* in the water to destroy any trace of *Kormoran*'s operation off the coast of Western Australia. That theory has never been confirmed, although it was widely believed.

A second theory was that HMAS *Sydney* had been torpedoed by a Japanese submarine working with the *Kormoran* and that the position of the submarine had to remain a secret because on the day HMAS *Sydney* was lost - 19 November 1941 - Japan was committed to the treacherous bombing and destruction of the American fleet at Pearl Harbour, which occurred on 7 December 1941. I am not sure on what date the Japanese fleet sailed from the Japanese mainland but it was a dangerous mission on which it was embarked. From what I have read of the fleet's movement towards Pearl Harbour the Japanese had always expected to be spotted. It was as big a surprise to the Japanese navy as it was to the American navy that the fleet moving towards Pearl Harbour was not spotted. It is one of the strange quirks of history that they were not identified.

If a Japanese submarine had been sighted off the Western Australian coast, that would have been a premature declaration of war - a serious event that would have destroyed the strategy of surprise attack that the Japanese military had devised. The Japanese would have been put at a great disadvantage. They could succeed only through surprise and treachery. If a Japanese submarine was involved, evidence of HMAS *Sydney* had to be removed or destroyed. I do not know whether that would be possible, but that is one theory.

What led HMAS *Sydney* to have a false sense of security about the *Kormoran* and why did it not realise the danger it was facing? Another theory was that the raiders usually operated with a supply ship. Captain Burnett may have wrongly assumed that he had located the supply ship that was carrying men taken prisoner in other engagements to Germany as prisoners of war. Captain Burnett would have been reluctant, as any Australian naval officer would be, to do anything that might put at risk or cause the death of the hundreds of Allied seamen who might have been aboard the ship.

That could be an explanation of why Captain Burnett moved so close to the German ship and why, even though he could not identify it clearly, he did not initiate action to destroy the ship. Captain Burnett could have done that successfully before the German ship fired on him. Obviously he did not know that it was a German raider. Captain Burnett's hesitation would have given the *Kormoran* the advantage over HMAS *Sydney* so that at a certain point he could launch every weapon, from heavy guns to machine-guns and torpedoes, at the *Sydney* knowing that its only hope of survival was a sudden surprise attack - similar to the Japanese attack on Pearl Harbour. The *Kormoran* may not have expected to sink the *Sydney* but probably hoped to disable it to give itself a chance of surviving the engagement. Of course that proved to be successful and HMAS *Sydney* disappeared over the horizon in a ball of fire. Naval history contains a similar account of the sinking of HMS *Hood*, which apparently disintegrated and disappeared from sight when its magazine exploded.

**The Hon. D. F. Moppett:** She visited Sydney in the mid-thirties.

**Reverend the Hon. F. J. NILE:** Yes, that is right. There may be some parallel. A shell from the *Kormoran* may have struck the *Sydney*, or the fires may have spread to the magazine. The ship could have disintegrated into a million pieces, destroying both the ship and the crew. That may be the explanation: no conspiracy, no hidden story. I support the third part of the motion that there should be an attempt to locate HMAS *Sydney*. In Pearl Harbour the *Arizona* has become an underwater memorial. The Australian people should know where on the ocean floor the *Sydney* is resting to commemorate the men who died. Perhaps the area could be marked in some way without trying to raise the ship or remove any remains. It should, however, be regarded as a memorial to the men who were prepared to give their lives in serving their nation and in this case did give their lives.

I express my support for the Royal Australian Navy. The Parliament should support this endeavour both morally and financially. Other speakers to the motion have stated that HMAS *Sydney* may have been at a disadvantage because of cost-cutting activities at that time. In every war politicians do not give the men and women at the front line sufficient equipment to do the job and they pay the price with their lives. I support the motion.

**The Hon. BERYL EVANS [3.48]:** On 19 November 1941 HMAS *Sydney*, under Captain John Burnett, R.A.N., went missing off the west coast of Australia. This simple statement did not portray the total tragedy of HMAS *Sydney* disappearing without a survivor among the 645 members of her crew nor one word being heard from them before the end. No information came from the *Sydney*, but the story was pieced together later by intensive questioning of the survivors of the *Kormoran*, a German raider captained by Commander Anton Detmers. Stories have been written and most probably will continue to be written many years into the future. The sudden vicious attack of the *Kormoran* at close range was devastating for the *Sydney*.

The tragic description given by the German captain was chilling. He said that on the horizon they could see a flickering light that they took to be the death throes of the *Sydney*. The light disappeared about midnight. All that was ever found of the *Sydney* was a shrapnel-torn carley craft and a few other bits and pieces. It is hard in this day and age to imagine the loss of 645 crew members that occurred 52 years ago, with the ship and all its contents totally disappearing. Tom Frame, the author of the book *HMAS Sydney: Loss and Controversy* said:

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Human beings have difficulty in living with the unknown, and they are even more uncomfortable with the unknowable. The seas are probably the world's largest store of both the unknown and the unknowable.

At that time no one thought that the *Sydney* would be listed as lost. Her record and successes in the Mediterranean and other theatres of the war were tremendous. As the former Navy Minister Billy Hughes said:

This magnificent ship seems to have a charmed life. She had run the gauntlet of the toughest fighting in the Mediterranean and escaped with not much more than a scratch on her paint. Every one of her countrymen had thrilled to her exploits.

One must understand the magnitude of this tragedy. The telegrams that followed to the next of kin stated simply: "With deep regret I have to inform you that your (son, husband, brother) is missing as a result of enemy action. The Minister for the Navy and the navy board desire to express to you their sincere sympathy". Unless one has lived in those times it is hard to understand what those telegrams were like. They came completely out of the blue. There were no daily and hourly television or media reports. I appreciate the sentiments of the Hon. D. F. Moppett in moving this motion, but at the same time I wonder if the resurrection of the *Sydney* from the depths of the ocean would be wise and the best course of action.

It was a long time ago, and we will always remember it, but the raising of a ghost brings back distress and disturbs the emotions to varying degrees. Any honourable member who has seen the remains of the ships in Pearl Harbour will understand what I am saying. I assure the Hon. D. F. Moppett that I am not against the motion as such. However, I feel that we should not disturb the peace of those men who are at rest with their ship, although they will always be in our memory. The loss of this fine ship was undoubtedly the result of combat in war. Irrespective of the tragedy of losses in war time we must never forget that the Navy has been and always will be the main provider of defence for this country.

**The Hon. S. B. MUTCH** [3.53]: I speak on this motion because my uncle, Ted Beard, the husband of my mother's sister Pat, is one of the very few men alive who served on the *Sydney*. Uncle Ted was on the *Sydney* when it engaged and sank the Italian cruiser *Bartolomeo Colleoni* in the Mediterranean in 1940 in what has become known as the battle of Cape Spada. In the same battle the consort *Giovanni Delle Bande Nere* was also damaged by the *Sydney*. Later, in one of those twists of fate, Ted Beard's mate, who had just completed a gunnery course in Perth with my uncle, was asked to transfer to the commissioned corvette HMAS *Cairns*.

The Navy named ships after towns - the bigger ships were named after the bigger towns. Therefore, *Cairns* was not as big a vessel as *Sydney*. Uncle Ted's mate did not want to transfer and said words to the effect, "I get sick enough now on the *Sydney*; imagine how I will be on that little tub". So Ted Beard volunteered instead to transfer to HMAS *Cairns*. Tragically, the very next voyage of the *Sydney* was to be its last. From the evidence it was laid low by an act of pure bastardry. I have been reading the book by Tom Frame entitled *HMAS Sydney: Loss and Controversy* which contains a photograph captioned "Sailors in Alexandria surrounding the hole in *Sydney's* funnel caused by the only direct hit scored by the enemy in the Cape Spada action".

I looked at that photograph for the face of my uncle as a young man, and realised that his face could be seen in every face. I could see youthful exuberance, boundless energy and vigorous health; the confident expectations of young Australian men - boys really. One wonders how many of those boys now lie on the bottom of the ocean. Ted Beard was one of the few to survive and marry, raise a family and live a full life. The hardships he endured affected his health, but he endured and has not complained. He has left us all a proud legacy. I have spoken today because I would like to thank him for defending our democracy at a time of greatest peril. I would also like to thank my Uncle Alf Crameri, who was in the RAAF and served in Europe; and my Uncle Jack Gallagher, who was in the army. Australians of my generation owe them everything.

**The Hon. D. F. MOPPETT** [3.56], in reply: I thank all honourable members who took part in the debate. I particularly thank the seconder of my motion, the Hon. R. B. Rowland Smith, for his contribution. The reason I particularly wanted him to second the motion was that he was a serving member of the Royal Australian Navy. It was interesting to hear him speak of his experiences on the *Kalgoorlie*, which was a very different ship from the *Sydney*. I can only sympathise with him because at one stage I was a member of the crew on a sister ship, the HMAS *Cootamundra*. They were quite unseaworthy ships. There is much I could say to thank members, but I should rather like to remind the House of the most important aspects of this two-day debate.

The focus has not been on the tragic loss of *Sydney* itself. The loss of 645 men amounted to one-third of all Australians lost at sea in the navy during the second world war. Though that would perhaps have been a subject worthy of debate, the debate was a tribute to the crews of the various *Sydneys* that have been referred to

in this debate and to all those who sailed in those ships throughout the history of the Royal Australian Navy. It is a tribute to the gallantry and heroism of all those who went to sea in the Merchant Navy and the Royal Australian Navy in whatever ship they may have sailed in.

It is a call on behalf of the citizens of Sydney and New South Wales to find the final resting place of *Sydney* so that the anxiety of the families of those who were lost and crews of the ship in other years may be put to rest. It is a call to recognise the site of the sinking of *Sydney* as a memorial and a fitting tribute to all those who lost their lives at sea in answer to the call to the highest duty anyone can perform in this nation. As I said in my opening remarks, this ship

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was originally named HMAS *Phaeton*. It is a tale among seafaring people that it is bad luck for a ship to be renamed. I guess that may be true in this case. I thought it was worth while to refer to Phaëton, the mythical character, and to one quotation from Ovid, which I think brings the whole debate together. I will not burden the House by attempting to quote Ovid's original Latin, but I will read this wonderful quotation:

Here lies Phaëton, the driver of his father's chariot, which if he failed to manage, yet he fell in a great undertaking.

Whatever the mistakes that were made in the strategy, policy or management of this ship, we should all remember that the entire crew and captain fell in a great undertaking.

**Motion agreed to.**

## **POST-CONVICTION INQUIRY (DOUGLAS HARRY RENDELL) BILL**

### **Second Reading**

**The Hon. R. D. DYER** [4.1]: I move:

That this bill be now read a second time.

The object of this bill is to enable the Supreme Court, on application by or on behalf of Douglas Harry Rendell, to direct a judicial officer to assess the amount of compensation that should be paid to Mr Rendell for damage or loss suffered as a result of his wrongful conviction for murder in 1980. This bill, which passed the Legislative Assembly on 18 November 1993, is an amended version of the bill entitled Post-conviction Inquiry (Quashing of Conviction) (Douglas Harry Rendell) Bill 1993 for which the second reading speech was given in the Legislative Assembly in May 1993. The objects of the original bill were twofold: namely, to provide for the quashing of a conviction for murder imposed on Douglas Harry Rendell and to provide for assessment of compensation in relation to that conviction.

Prior to the Committee stage of that bill in the Legislative Assembly the Government introduced in this House a bill entitled Crimes Legislation (Review of Convictions) Amendment Bill 1993, the principal object of which was to entitle a person who has been granted a free pardon in respect of a conviction to apply to the Court of Criminal Appeal for a review of that conviction - in other words, to enable the conviction to be quashed. The Crimes Legislation (Review of Convictions) Amendment Bill was given a speedy passage through both Houses on 27 and 28 October 1993 and it received multipartisan support. As a consequence of the enactment of the Crimes Legislation (Review of Convictions) Amendment Bill the first object of the original Rendell bill was achieved. The second object, provision for a judicial assessment of compensation, is the object of the bill now before this House. During debate in this House on 27 October 1993 on the Crimes Legislation (Review of Convictions) Amendment Bill the question of compensation for Douglas Rendell and others who similarly suffered a miscarriage of justice was raised by three honourable members. My colleague the Hon. J. W. Shaw said:

We note that the bill does not in any way address questions, either of procedure or of substance, concerning compensation. That is

something which, in due course, the Opposition believes will need to be addressed by this Parliament.

The Hon. Elisabeth Kirkby said:

The private members' bill introduced by the honourable member for Wallsend enabled assessment of appropriate compensation by legal authorities. I believe all honourable members would agree that this would be a correct procedure. Mr Rendell was wrongly convicted within the legal system, which has procedures for assessing appropriate compensation in such circumstances. Accordingly, the matter should be referred back to the legal system for appropriate resolution.

Reverend the Hon. F. J. Nile said:

The Parliament can ensure that there is justice for these two people, and there may be others - I hope not too many - who become the subject of similar legislation or even this legislation. There should be more than adequate compensation. That will be a matter for another piece of legislation.

The need for compensation is widely recognised. Briefly, the case of Douglas Rendell is as follows. Rendell was convicted in 1980 for the murder of his de facto wife. His appeal was dismissed. Following the overturning of the conviction of Lindy Chamberlain, in part because of the expert scientific testimony of Professor Barry Boettcher, Rendell approached Professor Boettcher because the same forensic scientist, Joy Kuhl, had been involved in his case. Material was subsequently placed before Mr Justice Hunt giving rise to doubt as to Rendell's guilt. On 14 February 1987 His Honour ordered an inquiry under section 475 of the Crimes Act by Magistrate A. M. Reidel. Mr Justice Hunt presented his report to the Governor on 23 June 1989, being satisfied that Rendell's conviction was unsafe and unsatisfactory, and recommended a pardon. The pardon was announced by the Attorney General, the Hon. John Dowd, on 26 July 1989.

Parts of the Reidel report were not released initially. These found that a police witness gave false evidence at the trial. This bill will enable justice to be obtained for Douglas Rendell. Without compensation three years after his release Mr Rendell was destitute and unable to obtain work, living in a shipping container on a benefactor's property north of Newcastle without hope for his future. An ex gratia sum of \$100,000 was offered by the Attorney General in November 1992. The sum of \$100,000 is not considered by Doug Rendell and his advisers to be sufficient compensation for 8½ years of wrongful imprisonment. Rendell received the ex gratia sum in April 1993 after signing a release from the Attorney General that the payment would be set off against any future amounts that may be awarded to him against the Government by way of compensation, damages or the like.

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Assessment of damages by a judge, possibly even Mr Justice Hunt, who directed the inquiry, will enable a compensation figure to be arrived at without any political involvement of the Attorney General. Our practice of awarding compensation in the form of ex gratia payments leads to inequities. It is not independent of the political process. Some victims of miscarriages of justice might miss out on any ex gratia payment as compensation for wrongful conviction and imprisonment. The size of ex gratia payments would appear to be dependent on the extent of media profile of the cases and independent of the length of time persons were wrongfully imprisoned. For example, the Chamberlains received \$1.3 million for three years' imprisonment; Harry Blackburn was paid \$1 million for nought years; Ziggy Pohl received \$200,000 for 10 years' imprisonment; and Doug Rendell received \$100,000 for eight years' imprisonment.

An ex gratia payment is a political decision of the Attorney General. That is not necessarily the route to justice. There is ample precedent in Australia for judicial assessment of compensation in the case of a miscarriage of justice. Following the inquiry and pardon in the Chamberlain case in the Northern Territory, the Northern Territory Attorney General, Mr Manzie, requested an independent assessor to provide advice on an appropriate ex gratia payment to the Chamberlains. The appointed assessor was Mr Justice Trevor Morling, who had conducted the commission of inquiry into the convictions. The principles on which the assessment was made were neither directed by the Attorney General nor subsequently published. An assessment was made

and the Northern Territory Government paid out sums recommended by Mr Justice Morling. New South Wales can be said to be behind the times. Other jurisdictions, including the United Kingdom, have moved to an automatic procedure to compensate people who have suffered miscarriages of justice. The precedent in the United Kingdom is section 133, being an amendment to the Criminal Justice Act of 1988 entitled "Compensation for miscarriages of justice". From October 1988 a statutory scheme was introduced to replace the ex gratia procedure.

What happens in the United Kingdom is that where a conviction has been reversed or an offender has been pardoned on the ground that a new or newly discovered fact shows that beyond reasonable doubt there has been a miscarriage of justice, the Secretary of State shall pay compensation for the miscarriage of justice to the person who has suffered punishment as a result of that conviction or, if that person is dead, to his personal representatives unless non-disclosure of the unknown fact was wholly or partly attributable to the person convicted.

It is further provided by this provision, in the United Kingdom, that no payment of compensation under this section shall be made unless an application for such compensation has been made to the Secretary of State. The question of whether there is a right to compensation is determined by the Secretary of State, and if and when the Secretary of State determines that such a right exists, the amount of compensation is assessed by an assessor appointed by the Home Secretary. The bill will enable judicial assessment of compensation for just one victim of a miscarriage of justice. There are, thankfully, only few such victims. It is appropriate for this Parliament to exercise its prerogative to facilitate justice in the case of this one victim, namely Douglas Harry Rendell.

It is wrong for the Parliament to ignore injustice visited on even one victim in New South Wales. The bill is a very simple one. Clause 1 provides for the short title. Clause 2 provides that the legislation commences on the date of assent. Clause 3 provides for the basis on which compensation is to be assessed. Clause 3 provides that the Supreme Court may, on the application made on behalf of Douglas Harry Rendell, direct a judicial officer to assess the amount of compensation that the Government of New South Wales should pay Mr Rendell for damage or loss because of his conviction for the murder of Yvonne Kendal. That judicial officer may, if so directed by the Supreme Court, exercise any power a prescribed person may exercise under section 475 of the Crimes Act.

The judicial officer is to take into account any ex gratia payment made for compensation paid to Mr Rendell by the Government of New South Wales before the date of assent. However, nothing in the bill otherwise affects any payment made or compensation paid to Mr Rendell prior to the date of assent. Finally, clause 3 provides that the legislation has effect despite any deed, release or other agreement signed by Mr Rendell limiting or preventing payment of compensation to Mr Rendell for damage or loss suffered by Mr Rendell because of his conviction. I commend the bill to the House.

**Debate adjourned on motion by the Hon. Elisabeth Kirkby.**

**The PRESIDENT:** Order! It being 4.15 p.m., pursuant to sessional orders debate is interrupted to permit the Minister to move the adjournment of the House should he so desire.

**The Hon. J. P. Hannaford:** I do not so desire.

## **HONOURABLE MEMBER FOR BLIGH**

### **Personal Explanation**

**The Hon. Dr Meredith Burgmann:** I seek leave to make a personal explanation.

**Leave granted.**



**The Hon. Dr Meredith Burgmann:** Today I wrote the following letter to Ms Clover Moore, the member for Bligh:

Dear Ms Moore

Today I am informed that the ICAC has considered the complaint made by Mr Ian Yates against you and the Minister for Transport and found them baseless and are therefore not proceeding with the matter.

I therefore believe that the remarks I made about you in the Legislative Council on 12th October 1993 are totally inaccurate and that the allegations are not true.

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The people who gave me the information misled me and I should have checked the information with you before I made the speech.

I therefore withdraw the remark and unreservedly apologise for the remarks I made about you on 12th October 1993.

Yours sincerely

MEREDITH BURGMANN

## **TRAFFIC (PARKING) AMENDMENT BILL**

### **Restoration**

Message seeking restoration of the Traffic (Parking) Amendment Bill received from the Legislative Assembly and, pursuant to Standing Order 201, bill restored on motion by the **Hon. J. P. Hannaford** on behalf of the **Hon. Virginia Chadwick**.

## **LEGAL AID COMMISSION (AMENDMENT) BILL**

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

### **Second Reading**

**The Hon. J. P. HANNAFORD** (Attorney General, Minister for Justice, and Vice President of the Executive Council) [4.18]: I move:

That this bill be now read a second time.

The Legal Aid Commission (Amendment) Bill will ensure a modern, effective and efficient management structure for the Legal Aid Commission of New South Wales. The existing 10-member commission will be replaced by a more streamlined board of management, with focus on strategic planning, financial management and policy development. The respective roles of the new board of management and the managing director of the commission will be rationalised. The bill arises out of a review of the operations and structure of the Legal Aid Commission of New South Wales conducted by Mr Ken Robson, a former Auditor-General, and Mr Steve O'Connor, Solicitor for Public Prosecutions.

In October 1992 Messrs Robson and O'Connor produced an interim report which identified the need to make legislative amendment to section 18 of the Legal Aid Commission Act. The interim report suggested that

the legislative requirement contained in that section, that the director of the Legal Aid Commission must be a solicitor, should be removed, and that the only essential requirement for the position should be a proven history in management and finance. It also suggested that the title of director be changed to managing director. Amendments to give effect to these recommendations were embodied in the Legal Aid Commission (Amendment) Act 1992. The position of managing director was permanently filled last year, with the appointment of Mr Colin Neave, former Secretary of the Victorian Justice Department.

Messrs O'Connor and Robson delivered their final report on 27 November 1992. The report made 55 recommendations relating to the structure, management and finances of the Legal Aid Commission, the position of public defenders, and the provision of legal aid in committals. The majority of the recommendations call for administrative implementation, and action has already been taken to advance implementation of these proposals where appropriate. Two further areas requiring legislative action arise from the Robson-O'Connor report. They relate to the structure of the commission, which is the subject of the bill, and recommendations concerning the accountability and management of public defenders.

As honourable members are no doubt aware, the issue of public defenders has been referred for examination to the Public Accounts Committee. The PAC report is expected shortly, and I will give consideration to introducing further legislative proposals in relation to public defenders in the light of that report. The Legal Aid Commission Act 1979 created the Legal Aid Commission of New South Wales as a statutory corporation. The Act provides for the Legal Aid Commission to be constituted by 10 commissioners, made up as follows: a chairman appointed by the minister; the managing director of the commission; a person appointed to represent the Minister; two persons nominated by the Commonwealth Attorney-General; a person nominated by the Bar Association; a person nominated by the Law Society; a person nominated by the Labor Council; a representative of consumer and community welfare interests; and a representative of bodies that provide community legal services.

The Robson-O'Connor report is critical of the existing constitution of the commission, as set out in the Act, and of the overall management structure of the Legal Aid Commission generally. It suggests that a 10-member commission is too cumbersome to operate effectively as the key strategic management group for the Legal Aid Commission. The Robson-O'Connor report proposed the creation of a five-member board of management, composed as follows: a chairperson, being a person who has appropriate business, management and financial expertise; a nominee of the Commonwealth; a nominee of the Law Society; a nominee of the New South Wales Attorney General; and the managing director. I strongly endorse the need for a more dynamic structure, with greater emphasis on financial and managerial responsibilities.

On one view the Legal Aid Commission can be seen as comparable to a large commercial provider of legal services, such as a large law firm, with similar needs to ensure the effective and efficient provision of services, and proper cost and budgetary control. However, it is not appropriate for the management of the commission to be structured purely on a commercial model. A primary task of the commission remains to determine priorities for the provision of legal aid, that is, how the limited funds available for legal aid should be allocated so as to maximise community benefit. It is important that the membership of the board of management is sufficiently diverse to maintain community confidence in the performance by the commission of this role.

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Schedule 1 to the bill sets out the amendments to be made to the Legal Aid Commission Act 1979. The composition of the new board of management, as set out in proposed new section 14, reflects the need for a more broadly based board of management. Pursuant to proposed new section 14, the board of management is to be composed of the managing director of the Legal Aid Commission; a part-time chairman appointed by the Attorney General, being a person who has appropriate business, management and financial expertise; and five part-time members appointed by the Attorney General. Of the part-time members, one is to be a solicitor appointed after consultation with the Law Society, one is to be a barrister appointed after consultation with the Bar Association, two are to be nominated by the Federal Attorney-General, and one is to be a community representative, appointed after consultation with the Federal Attorney-General.

The proposed composition of the board was settled following widespread consultation in relation to the recommendations contained in the Robson-O'Connor report, and further detailed consultation with the Federal Minister for Justice and the legal profession. It will be noted that the new section 14 defines membership qualifications by reference to relevant experience, rather than providing, as in the present Act, for members to be nominated as representatives of particular interest groups. The Robson-O'Connor report stressed the need for the board of management to concentrate on key strategic decisions and issues of policy, and to provide management and financial expertise and direction. Part of the difficulty with the existing legislative framework is that the responsibilities and role of the commissioners, as the key management group, are not separated from the general functions and powers of the commission in the day-to-day provision of legal aid services.

To provide for all the commission's functions under the current Act to simply pass to the new board of management would be to fail to address the shortcomings identified within the existing structure. This bill seeks to more closely define the executive role of the board of management and to clarify the respective roles of the board and the managing director in the overall management of the commission. Proposed new section 15 sets out the functions of the board. These are: to determine the policies and long-term strategies of the commission; in particular, to determine general priorities and to set guidelines relating to eligibility for legal aid; to oversee the management of the commission to ensure that it is effective, efficient and economical; to make determinations in relation to grants of legal aid in cases which, in the board's opinion, are of particular importance, for example because of the potential cost of the grant; and to provide advice to the Attorney General on matters relating to legal aid, either of the board's own volition or at the request of the Attorney General.

One of the fundamental features of the Legal Aid Commission is its independence of Executive Government in the determination of applications for legal aid. It should be stressed that it will remain the role of the independent board of management to determine the priorities and guidelines for eligibility for legal aid. The board of management will also have the power to make determinations as to the grant of legal aid in respect of individual cases that it considers to be of particular significance. It is also appropriate that the board should retain a general advising power on matters pertaining to legal aid. Obviously, in respect of routine issues, it might be more appropriate for advice to be sought from the managing director or Legal Aid Commission staff, and it is not intended to preclude this.

The new schedule 2 to be inserted by the bill into the Legal Aid Commission Act contains provisions relating to the conditions of appointment of board members, and the procedures of the board. The functions of the board of management will stress its key executive role. The day-to-day functions and powers under the existing Act in relation to the administration of grants of aid will remain responsibilities of the Legal Aid Commission itself. In view of the fact that the commission is now to be a memberless body, provision is made under new section 17 to enable the managing director to act in the name of the commission in the performance of the commission's functions under the Act. Similar provision has been made in other recent legislation, for example the Protection of the Environment Administration Act 1991, which provides for the establishment of the Environment Protection Authority.

Clause 17(2) of the bill makes it clear that in exercising the functions of the commission the managing director must at all times act in accordance with the policies and guidelines of the board, and is subject to any directions of the board. The Act currently provides for a right of appeal to an independent legal aid review committee from decisions made by the managing director, or other Legal Aid Commission staff, in respect of determinations made relating to the provision of legal aid. The bill will amend the Legal Aid Commission Act in order to ensure that a right of review will also arise in respect of decisions made by the managing director acting in the name of the commission. However, as is the case with determinations made by the commission under the existing legislative framework, determinations of individual applications made by the board of management itself will remain final.

In view of the proposed new management structure, there is the need for a number of consequential amendments of a machinery nature to particular sections of the Act. For example, it has been necessary to review section 69 of the Act, relating to the commission's powers of delegation, in line with the proposed

general power for the managing director to act in the name of the commission. Accordingly, it is no longer necessary to provide for a power of delegation of the commission's functions to the managing director. Where appropriate, the Legal Aid Commission Act

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has been amended to transfer existing responsibilities of the commission to the board of management. For example, section 53 of the Act is amended to provide that it is the board rather than the commission that is responsible for the establishment of legal aid review committees. This is appropriate, as decisions of the commission itself are now to be subject to appeal to a review committee.

Finally, I should note that the transitional provisions of the bill will, upon commencement of the new provisions relating to the board of management, terminate the appointment of the existing members of the Legal Aid Commission. I would like to express my gratitude for the enormous amount of time and effort contributed by the existing members of the commission, in particular the existing chairman, Mr Brian Rayment, Q.C. As honourable members will no doubt be aware, the Legal Aid Commission was established pursuant to an agreement in relation to the provision of legal aid between the Commonwealth and this State. Clause 9 of the agreement requires the State to consult with the Commonwealth before introducing any amendments to the Legal Aid Commission Act into Parliament. I have consulted with the relevant Commonwealth Minister, the Hon. Duncan Kerr, M.P., who has given his endorsement to the proposals reflected in the bill. The bill will modernise and enhance the management structure of the Legal Aid Commission. It will pave the way for the more efficient and effective use of the resources available for legal aid. It is an important bill and I commend it to the House.

**Debate adjourned on motion by the Hon. R. D. Dyer.**

## **GOVERNOR'S SPEECH: ADDRESS IN REPLY**

### **Seventh Day's Debate**

**Debate resumed from 16 March.**

**The Hon. Dr B. P. V. PEZZUTTI** [4.31], in reply: It is with some pride and humility that I reply to the substantial contributions that have been made in the Address-in-Reply debate. In this debate I heard many more speeches with which I agreed than I have heard in the five or six years that I have been a member of this House. It is for me now to respond to some of the comments made by honourable members and to conclude the debate, and to hope that the Governor will find that our contributions reflect the views of the people.

Some of the contributions of my colleagues require substantial comment. I begin with the speech by the Hon. S. B. Mutch, who has courageously pursued pseudo-religious or psychological cults. In this International Year of the Family the Hon. S. B. Mutch has emerged as the champion of people who have suffered exploitation by these groups. In seeking an inquiry he has challenged us to tackle this difficult issue. In particular, he has highlighted the second-class status of the women in many of these groups, and he has pinpointed a crucial issue: how can we allow the rights of people to be subsumed in the interests of others? How can we be concerned about the interests of children when often they are being raised in circumstances where they are denied a natural, normal, healthy upbringing? I commend the Hon. S. B. Mutch for his efforts and the substance of his contribution.

My learned colleague the Hon. Dr Meredith Burgmann commented on enterprise bargaining, particularly as it affects women. A number of concerns have been expressed about the impact of enterprise bargaining on women workers. Though I do not doubt the sincerity of her concerns, I strongly disagree with the argument that women will automatically lose out in enterprise bargaining. Provided adequate safety mechanisms are in place - as they are in New South Wales - enterprise bargaining provides women with an opportunity to achieve greater benefits and flexibility of work. Last December a report on a survey on women in enterprise bargaining was released. The Minister for Industrial Relations and Employment and Minister for the Status of Women, the

Hon. Kerry Chikarovski, has advised me that her department continues to monitor enterprise agreements and reports monthly to her on issues concerning women workers. This will enable the Government and the department to continue to fine-tune and adjust its strategy in relation to enterprise bargaining.

In the International Year of the Family positive benefits and innovative provisions, particularly for women and other workers with family responsibilities, continue to be a part of enterprise bargaining. I instance the inclusion of child care in pay packaging, providing child care services and increasing the span of working hours, and allowing flexible starting and finishing times. Since the release of the report another 113 enterprise agreements have been registered, of which 12.3 per cent were negotiated in workplaces with a majority of women workers. This underrepresentation of women in enterprise bargaining agreements is largely due to lack of adequate information. It is important that women become fully aware of how to use the enterprise agreement system.

Employers and employees are able to maximise the opportunities that enterprise bargaining offers. Last December the Government launched an information strategy campaign. I notice that the Hon. Dr Meredith Burgmann made no mention of that, or its impact. The first stage of the campaign is targeted at women, people of non-English speaking background and those in small businesses. It includes a series of brochures available in English, Italian, Greek and Vietnamese which explain in easily understood language the process and advantages of enterprise bargaining, tell of a free hotline for information about enterprise bargaining, and deals with inquiries at each step of the process, from legal rights and minimum entitlements to the practicalities of negotiating and implementation of agreements.

The contributions of members to this debate provide a concise picture of where we are in 1994. The Hon. Dr Meredith Burgmann seems to be trapped

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in some sort of time warp from which she will emerge as a beautiful butterfly. She will continue to strive to stop male domination of women workers by the union movement and help to free women from men who continue to oppress them. My colleague the Hon. J. M. Samios spoke of the notable achievement of the Government in ethnic affairs, and emphasised the importance of the Charter of Principles for a Culturally Diverse Society. He spoke also of the establishment of a portfolio for multicultural and ethnic affairs introduced by the Fahey Government and headed by the Hon. Michael Photios, who is the first Minister for Multicultural and Ethnic Affairs in this State. That portfolio is playing a pivotal role in dealing with issues confronting the ethnic community.

The Hon. J. M. Samios mentioned the Government's achievements in arts - in particular as they relate to the Sydney Festival and Carnivalé - the proposed cultural agenda for the Olympic Games and the future of Customs House. The Hon. J. M. Samios is tireless in his pursuit of issues concerning the arts and our cultural relationships at the language level and in ensuring that people in the workplace from non-English speaking backgrounds are not disadvantaged. The Hon. Jennifer Gardiner made a fine contribution in addressing the need to focus on the International Year of the Family. She emphasised the Government's efforts in strengthening the chance of family survival through improvements in parenting skills.

This should be achieved by extending, for example, the parents as teachers program, so that increasing numbers of first-time parents are encouraged to become more skilful in passing on learning skills in the vital zero to three-year-old phase of their child's life. The Hon. Jennifer Gardiner also called on regional business to ensure that they grasped every occasion to participate in opportunities offered to them by Sydney's successful bid for the 2000 Olympic Games to supply their goods and services in developments that will take place between now and the Games. The Hon. Jennifer Gardiner knows that in his speech the Deputy Leader of the Opposition also made half-hearted comments about regional development and small business.

The Hon. Jennifer Gardiner spoke at length about opportunities for country tourism. It is obvious that the tourism development strategy developed by Minister Chadwick and her department is working and that there are many more opportunities to boost regional advantages. I thank the honourable member for her forthright speech, which was evidence of her continuing contact with country people and her representation of their views

at every opportunity. My honourable and elegant colleague the Hon. R. B. Rowland Smith spoke with considerable conviction about the nature of this Parliament, its history and traditions, and rejected calls by others to change its name or the title of members who serve here. I strongly respect the honourable member's opinions. He has always behaved in a way that would lead no one to believe he is an insurance salesman. He always is a gentleman, extremely open, and extraordinarily honest - attributes, I must say, which he shares with many insurance salesmen I have dealt with over the years, all of whom have been open and honest gentlemen.

The Hon. R. B. Rowland Smith made the point that although the racing industry is not in crisis, it is at a crossroads. The Government needs to have greater appreciation of the importance of the racing industry to the economy of this State in particular. Proper development and implementation of initiatives that will achieve these objectives will be of crucial importance to racing clubs. The honourable member said during his speech that what is also required is a legislative and regulatory environment which will enable the racing industry to manage its own future and allow it to compete properly with the growing competition of other forms of gambling. He argued that the racing industry must therefore investigate and present proposals to the Government related to supporting means of increasing on-course and off-course betting turnover by reducing overall deductions, having lower deductions on-course than off-course, and adjusting the inadequate allocation of betting deductions to race clubs, especially metropolitan race clubs.

The honourable member suggested a review by government of the overall tax burden on the racing industry as compared with that on its other competitors, addressing inequalities in allocation of the TAB schemes of distribution by amending regulatory controls to allow race clubs to introduce betting auditoriums, licensed premises and other gaming options on-course. He strongly argued that the key requirement is that the thoroughbred racing product in future is competitively priced and fairly taxed compared with gaming casinos and other gambling. He suggested strongly that the Government should ensure that racing is not priced out of an ever-competitive New South Wales and Australian gaming market. The honourable member has thought a lot about this. He has put his own money where his mouth is on many occasions, and has won more often than he has lost.

The contribution to the Address-in-Reply debate by my colleague the Hon. J. H. Jobling highlighted the State Government's achievements and future plans for the coal and power industries in this State. As a long-term resident of the Upper Hunter and former Chairman of the Shortland County Council, Mr Jobling is a most eminent commentator on this subject. In his usual authoritative style, he outlined the transformation of the power industry under the Fahey Government's guidance, as well as recent developments in the wine industry. Can members forget Mr Jobling's appraisal of the Leader of the Opposition's speech in reply in this House? He unveiled that contribution for the shallow, misguided and dishonoured treatise that it was.

My colleague the Hon. Patricia Forsythe has always been a strong advocate of the twin goals of economic growth and social compassion. She highlighted those goals in the Government's program.

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She focused in particular on employment growth, manufacturing, microeconomic reform, regional development and on those programs the Government is using to focus on individuals and their future. Education and womens policies were highlighted. As members have come to expect from the honourable member, Newcastle and the Hunter Valley were also mentioned, showing her enduring concern for that important part of the State.

My colleague the Hon. J. F. Ryan made a detailed study which compared the solid and proven record of achievement by the Fahey Government with the tragic record of incompetence administered by the former Labor administration. After five years of competent Liberal Party-National Party government it is now possible to positively quantify enormous progress in our schools, health services, public safety, in the reduction in the number of people waiting for housing and in improvements to the urban environment. That is particularly so in greater western Sydney and southwestern Sydney, which the honourable member struggles to help on all occasions. Instead of 60 per cent of our young people leaving school before completing 12 years of education, more than 75 per cent stay on at high school or TAFE.

**The Hon. J. F. Ryan:** It is 80 per cent.

**The Hon. Dr B. P. V. PEZZUTTI:** The honourable member reminds me that the figure is now 80 per cent. There has been an historic decrease in crime rates for serious offences such as car theft and house burglary. The Government's housing programs may have saved well over 120,000 families from being left homeless. The development of Sydney is now proceeding in an orderly fashion, in contrast with how former environment Minister Bob Carr used to ride roughshod over his Government's planning laws in order to foster pet projects built to conform to an ad hoc agenda. I commend also my colleague the Hon. Helen Sham-Ho for her hard work and tireless efforts in working with and for ethnic communities and encouraging and strengthening our ties with Asia. As the honourable member reported in her address, 44 per cent of all international tourists to New South Wales are from Asia and the numbers are steadily growing. Tourism is one of this State's fastest growing industries and one of our major sources of income. With the countdown to the 2000 Olympics, tourism will surely increase rapidly. As a special adviser to the Premier on the Asian community, she plays a vital role as a catalyst and facilitator.

Her position as a member of the Government gives New South Wales an advantage in furthering our economic and trade ties with Asia. Trade between New South Wales and Asia is also growing rapidly. Her initiatives in the area of Asian trade are well known. Her background, language skills, sensitivity and style enable the Government to interact with our Asian counterparts in an informed and sensitive manner. I am sure the delegates from China warmed greatly to her presence. The enormous growth in both Asian tourism and Asian trade is a testament to her great efforts as a member of the New South Wales-Guangdong joint economic committee. As a driving force behind the establishment of the China task force, she is a great ambassador for economic development in New South Wales. Her enthusiasm is recognised not only by members of this Chamber but also by the wider community.

I congratulate my colleague the Hon. Beryl Evans on her contribution to the debate and on bringing to the attention of the House the exemplary work this Government is doing for New South Wales senior citizens. As the Premier's official spokesman on ageing, Mrs Evans is committed to raising the profile of positive ageing in the community. She is a very active advocate for older people and has been networking with peak retirement, ex-servicemen and pensioner groups throughout the State. Mrs Evans is an inspiring role model for our community in her pursuit of a fairer deal for older people. As the honourable member pointed out in her speech, we are the first State in Australia to have abolished compulsory retirement and to have stopped age discrimination. We are the first in Australia with a labour market program for mature workers. We are pioneering better health and better community care for older people. Visiting American author Betty Friedan gave us her seal of approval. She said we are on the cutting edge with our social policies on ageing. The Hon. Beryl Evans is also to be commended for her tireless work in the area of women's health, particularly in raising community awareness of cervical and breast cancer. The Hon. Beryl Evans, an active campaigner on women's issues for many years, has taken up the fight for breast cancer research, determined with the help of her parliamentary colleagues to improve the profile and resources given to this disease.

The Hon. Dorothy Isaksen commented in her speech that under a previous Labor administration it was proposed that Manly Council be amalgamated with Warringah. Imagine trying to do that today - world war III would break out. The Hon. Dorothy Isaksen then spent some time talking about the problems caused by the devolution of amalgamating Warringah Council with Pittwater. I am sure the Government and the Governor will take on board constructive suggestions from the honourable member and that those matters can be resolved by working with people of good faith. Many problems identified by the honourable member, such as the cleaning up of Curl Curl Lagoon and other areas, will be addressed aggressively by the Government.

The speech of Reverend the Hon. F. J. Nile was longer than usual and contained his constant sources of encouragement to the people of New South Wales - loyalty to God, to the Crown, to the Parliament and its people, to the legal process - and an aim to improve the role of the family. The honourable member is to be strongly supported for his views. Reverend the Hon. F. J. Nile raised the issue of a St Patrick's Day mardi gras. I thought that an interesting conjunction of two parades, which would be quite something. It would probably be the largest St Patrick's parade that the world had ever seen. The

honourable member towards the end of his speech made a strong point in calling on us all to use God's direction and guidance in facing the increasingly complex problems of the nineties that are almost beyond the ability of humans alone to solve. We all pray that way each time we come into the Chamber and I am sure that if we continue to seek that guidance we may be able to muddle through on some of the larger complex issues. I have taken the honourable member's comments on board and will take his advice - as I am sure all honourable members will.

Reverend the Hon. F. J. Nile spoke at length also about the Australian flag as a Christian flag. It was an interesting idea that had not occurred to me. Of course, as the Deputy Leader of the Opposition pointed out, it includes the Cross of St Patrick, the Cross of St Andrew and the Cross of St George. To that extent it is a Christian flag. Debate continues on whether our flag will change. Reverend the Hon. F. J. Nile also gave an indication of bills that he will introduce to the House, some of which I will agree with and some of which I will not. There are some bills on which I think he has gone too far, and some on which I think he has not gone quite far enough, but the issues need to be confronted by a modern government. The fact that Reverend the Hon. F. J. Nile brings them forward for debate does not mean that honourable members have to agree with them, but they are issues before the people and should be considered.

I congratulate the Hon. K. J. Enderbury on his contribution, which was a response to the gross and vicious attack on the members of this House, their value and credibility, by the *Daily Telegraph Mirror*. The honourable member's response to that attack was measured and well researched. I thank the Hon. K. J. Enderbury for taking the time and trouble to prepare a response, because he could become a target for media hit men or hit women - hit persons. The honourable member made a strong comment and a strong commitment to more openness and honesty, and for that I thank him.

The Hon. E. P. Pickering made another solid contribution, as one would expect from a man of his stature and history, a man who has struggled so hard to make this Parliament and the Government of this State so much more open, more honest and more accountable. He has developed that over a long period, and his commitment to this Chamber and the parliamentary process is to be commended and emulated. The Hon. E. P. Pickering commented that Winston Churchill once said that the Westminster system was probably the worst system in the world but nobody had bothered to show him a better one. He went to some length to explain - and it would be instructive for many young people, particularly journalists, to read his speech - how the Parliament continues to devolve. Parliament is not dead and moribund; it is evolving and growing, as alive as its members and its constituents wish it to be.

The Deputy Leader of the Opposition began to come to grips with the same issue but unfortunately his contribution was truncated because of time limits; therefore his arguments do not run as well as they might. I thank the Deputy Leader of the Opposition for his commitment, for pointing out the value of the Parliament and of this particular House and its contribution to the history of New South Wales. He spoke at length, but again was truncated, about small business and regional development. In particular I noticed his admiration for the work of Professor Geoffrey Meredith, the new chair of the faculty of business at Southern Cross University.

It is unusual for the Australian Labor Party to obtain good advice, but if the Deputy Leader of the Opposition intends to go anywhere to obtain advice, he will obtain that good advice from Professor Geoffrey Meredith and the shining new example for universities in Lismore, the Southern Cross University. The Deputy Leader of the Opposition also commented on the operation and impact of legislation that the Government will bring forward through the Minister for Small Business and Minister for Regional Development to deal with the issue of tenancies in large shopping centres. I believe the Deputy Leader of the Opposition will welcome those changes and that debate will be of interest to small business people throughout this State as well as across the Commonwealth because this is the first State that is moving in an attempt to smooth out those commercial arrangements without getting in the way.

I was interested to hear that I was meant to be supporting the change of address for members of this Chamber to senator. I would welcome the change because it would clarify our position, particularly to those in the ethnic press who have no way of translating that title. We have to wait until the recession is out of the way



and New South Wales is well back on its continuing path to recovery.

**Reverend the Hon. F. J. Nile:** Is the honourable member going to comment on the issues raised in the Hon. Elaine Nile's speech?

**The Hon. Dr B. P. V. PEZZUTTI:** I still have to come to that. The issue of our title will wait for another day. The Deputy Leader of the Opposition also referred to seeing the Minister for Education, Training and Youth Affairs driving through the wilderness on a horse. The honourable Minister would not charge through anything on a horse, I am sure. The Hon. L. D. W. Coleman, who honourable members know is a hard working member of the Legislative Council, a member who gets out into the field to see things at firsthand and what is really happening while speaking face to face with people, mentioned practical conservation through the sustainable uses of resources and wildlife. He also shows great concern for the well-being of country workers and towns that are threatened with the extreme green movement and lack of resource security.

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The Hon. L. D. W. Coleman also spoke strongly in favour of Sydney High School's shooting team and what a great job they were doing to broaden education horizons by organising the rifle team to visit Great Britain during the winter. At the same time he showed great concern about the effects of the recent devastating bushfires. The honourable member asked that we learn from past mistakes and look forward when planning for future fire fighting policies, especially those of hazard reduction.

The Hon. Elaine Nile made a substantial speech, and I have now received a printed copy that has been tabulated for ease of access and reading. I am sure that the considerable contribution by the Hon. Elaine Nile will be widely read by a large number of people. I found her challenges to the Liberal Party at the Federal level quite interesting. But again we will rely on the wider community to read this extensive contribution. I do not believe in the Canberra condom conspiracy but many people may take some interest in the words of the Hon. Elaine Nile.

**The Hon. Elaine Nile:** The Canberra condom conspiracy was talked about, not the New South Wales parliamentary one.

**The Hon. Dr B. P. V. PEZZUTTI:** No, there is not one of those, it is not mentioned in the speech and I am not permitted to raise new issues. The contribution of the Hon. Franca Arena this year was a little more muted than usual. She showed while speaking at length about the ethnic affairs policy statement and its reform that her understanding of the issue is improving as the years go by. I do not mean that in an insulting way, but in a positive way. I meet the Hon. Franca Arena and see her hard at work at more functions than I see any other member of the Opposition.

**The Hon. Franca Arena:** We attend the same functions.

**The Hon. Dr B. P. V. PEZZUTTI:** I do not attend all the functions that the Hon. Franca Arena attends, make no mistake. She works hard day and night, on which I congratulate her. She pays particular attention to women when she attends those gatherings. She is always welcome and she is always charming. She has helped me on a number of occasions at some of these functions. The Hon. Franca Arena has always been a careful student of what is happening in the ethnic community. Over the many years she has served the ethnic community, particularly migrant women, she has done a remarkable job. I am sure the Government will receive from the Hon. Franca Arena a lot more plaudits for the work it does than she gave in her speech. However, she recognises the efforts that are being made by our community groups, who are funded and will continue to be well funded by the Government in every way.

I was interested in the honourable member's comments about Senate preselection. I believe there is a motion before the Chamber in support of the Hon. Franca Arena's stance to increase the openness and credibility of the Labor Party's preselection processes for the Senate. This is not the time or place to go into it, but it will

be debated at a future time. I was also interested in her support of another of her female colleagues, Miss Pat Staunton, who is the head of the Nurses Association. I believe Pat Staunton also got the shaft the wrong way round.

I puzzled over the contribution of the Hon. J. W. Shaw. I read it three times because I could not see the entire point of it. There was much about the way in the Government could bring change in delivering services to community and union groups. It is a complicated, convoluted process that will not get halfway through. The 12 stringent criteria that have been adopted by the New South Wales Branch of the Labor Party are unwieldy, unnecessary and will not lead to the desired effect that the Hon. J. W. Shaw hopes they will have. His contribution on local government was shortsighted. His opposition to contracting and tendering for goods and services to local government is well known, and he seems to miss the point again on the accountability process.

The speech of the Hon. Elisabeth Kirkby was of considerable interest. She spoke about health. Most of her information would have been available because of the openness of government and the access to and availability of information. She spoke at some length about waiting times and waiting lists. When the Government came to office no waiting times or waiting lists were available. Half the hospitals in the State did not have them and therefore could not publish them. The Government has gone out of its way to make that information more available, and I hope there will be a reduction in waiting times and an even spread of services, resulting in equity and access to health services.

The second part of the honourable member's speech concerned the vast impact on Westmead Hospital. The Government agrees with her that the only hospitals built and commissioned in the western suburbs were built by this Government and the Liberal Government before it. Westmead Hospital was one of those. The new Fairfield Hospital was commissioned by this Government and funds were allocated for the redevelopment. There has been increased funding for Liverpool and vast increases for Penrith Hospital. Once Liverpool Hospital is operating, about 30 per cent of the patients who go to Westmead now will have services locally, at Penrith or at Liverpool. I do not know if the rumours that are being floated about closures of Auburn and Mount Druitt hospitals are being fuelled by the Labor Party or are more Labor lies, but they are categorically ruled out. The Labor Party commissioned and opened Mount Druitt hospital. It is interesting that an order of nuns was used to operate it.

**The Hon. J. R. Johnson:** Why is it interesting?

**The Hon. Dr B. P. V. PEZZUTTI:** Given the problems these days with talks of privatisation and handing over the running of these places to organisations other than those that are under the control of the Minister for Health or the public service, it is interesting.

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**The Hon. Ann Symonds:** Profit or not for profit?

**The Hon. Dr B. P. V. PEZZUTTI:** Not for profit. A criticism from the Hon. Delcia Kite about the operation of the Hawkesbury Hospital, which will be a not for profit organisation, gives the lie to what the Hon. Ann Symonds has just said. She should talk to her factional colleagues if she wants to pick me up on that sort of thing. Canterbury Hospital is another matter. There is some pressure on Canterbury Hospital for the moment until the new western suburbs hospital is built. It will be built, it is on stream and on track. When it is completed it will be what the Minister said it would be when he made the announcement - a full general hospital with intensive care, coronary care, paediatric care, maternity care, et cetera. Rumours are flying that it will be a downgraded, little old place. It will not. It will be exactly what the Minister said it would be.

**The Hon. J. P. Hannaford:** They said that about Port Macquarie.

**The Hon. Dr B. P. V. PEZZUTTI:** I am glad the Attorney General and Minister for Justice raised the

subject of Port Macquarie. The Hon. Elisabeth Kirkby also spent some time talking about waiting times at Port Macquarie. The Government recognises they are growing. That is why the new hospital is being built and the amount of funding for that hospital is being increased. The Hon. Elisabeth Kirkby said almost 1,000 people are waiting. I was talking to people on the Central Coast Australian Broadcasting Corporation radio recently and they raised the issue of waiting time on the Central Coast. The Deputy Leader of the Opposition in another place has said that waiting lists are horrible.

I pointed out to the ABC in Newcastle that waiting times on the Central Coast plummeted last year because this Government put in an extra 200 beds at Gosford, opened the Wyong Hospital and injected into the Central Coast Area Health Service \$40 million in one hit. The Hon. J. P. Hannaford was the Minister responsible for it. The Opposition will be more grateful as it perceives that waiting times are decreasing and the number of people waiting are decreasing, but the increased quality of the service has to be seen to be believed. As more people come to see the place and to use it, they are becoming more and more impressed. The Government has received the odd letter of thanks from people of the Central Coast, which is quite surprising.

A similar situation applies to Port Macquarie, western Sydney and southwestern Sydney. Services cannot be provided without adequate facilities. That does not mean we should concentrate on beds. We should concentrate on having modern, high quality facilities with high quality technology in the right place - where the people are. That is what the Government is doing in western Sydney, southwestern Sydney, Wentworth, the North Coast and the Central Coast. In western Sydney the children's hospital will make an enormous difference to travelling time and access to care, as will the increasing service in the eastern suburbs to maintain a central eastern Sydney location for children.

There has been a massive improvement at South Sydney, with \$168 million worth of high quality, high technology good services operating and running. The changes that have been made to health are mammoth. The Hon. Elisabeth Kirkby was a little more muted in her criticism this year than in previous years, but again she worked off the principles of the Government's published documentation, upon which she obviously relies and on which the people of New South Wales can rely. I am sure that the Governor will find interesting the contribution of all honourable members. But I am sure he will find most interesting the contribution of the Hon. R. T. M. Bull, who spoke about the quality assurance program in education.

The Hon. Ann Symonds, in her contribution, questioned the value of devolution - giving parents and local communities some say over the way in which they spend their resources. The Hon. R. T. M. Bull, when answering those questions, talked about the quality assurance program and about public accountability in the performance of schools and the Department of School Education. He said that we should gauge the success of outcomes by the performance of our children and our schools. He referred to the fact that the most exciting development in education for many years is post-compulsory education and training, with an emphasis on links between schools and TAFE. The Hon. R. T. M. Bull also spoke about the commitment of the New South Wales Government to new and better education and training pathways to help students discover, develop and contribute to excellence within their chosen fields. The Hon. R. T. M. Bull stated:

These courses will give young people access to a broader and more interesting and equitable range of and study options leading to the higher school certificate and further education and training.

When I commenced my speech in the Address-in-Reply debate I spoke at length about what the Government was doing. This year I did not have time to speak at length about the value of this Government's programs for people on the North Coast in particular. This Government is committed to ensuring that a new, stand-alone university will be built on the North Coast. That is something to be treasured. The Government is committed also to improving services in health education and providing new facilities in hospitals and schools. I commend those honourable members in another place who represent the North Coast. By way of their Address-in-Reply debate contributions, they made very good reports to their constituents.

I reject the amendment moved by the Leader of the Opposition. I commend to the Hon. J. Kaldis a

wonderful report entitled "The Performance of New South Wales Government Business", which he might like to read. I commend the Governor's Speech to the Parliament. I commend the Government for the

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directions it has decided to take. The sorrows of the bushfires and the clean-up operation after those bushfires will not be forgotten, but I am sure that the lessons have been learned. I thank the people who fought in the bushfires. They will be remembered not just today but in the future. In the year 2000 we can look forward to new and increasing optimism. We hope the Olympic spirit will engender greater compassion among our colleagues. We hope this will extend beyond the Olympic Games and will become a feature of New South Wales that the rest of the world will come to admire. New South Wales might be used more and more as an example of the sort of society in which many other people wish to live.

**Amendment negatived.**

**Motion agreed to.**

**The PRESIDENT:** I announce to the House that I have ascertained it to be the pleasure of His Excellency the Governor to receive the Legislative Council's Address in Reply to His Excellency's Speech at Government House on Tuesday, 12 April 1994, at 2.45 p.m.

**Motion by the Hon. J. P. Hannaford agreed to:**

That the House do proceed on Tuesday, 12 April 1994, at 2.30 p.m. to Government House and there at 2.45 p.m. present to the Governor the Address in Reply to the Speech His Excellency has been pleased to make to both Houses of Parliament on opening the Session.

## **ADJOURNMENT**

**The Hon. J. P. HANNAFORD** (Attorney General, Minister for Justice, and Vice President of the Executive Council) [5.17]: I move:

That this House do now adjourn.

## **DISTRIBUTION OF CONDOMS IN PARLIAMENT HOUSE**

**Reverend the Hon. F. J. NILE** [5.17]: All honourable members would be aware that this year is the International Year of the Family. We should all be concerned about family values and promoting the morality that will provide a foundation for the family and family values. Today I was disappointed to see condoms being distributed not in the strangers' dining room but at the main entrance to the members' dining room. Honourable members would also be aware that I raised this matter in the House during question time. Since then the Minister responsible, the Minister for Industrial Relations and Employment and Minister for the Status of Women, the Hon. Kerry Chikarovski, has apologised to the Speaker in the other place and forwarded a letter to the President which I shall read:

The Hon. Fred Nile, MLC, this afternoon during Question Time asked whether free condoms had been distributed by the NSW WorkCover Authority in Parliament House, during a launch of an HIV-AIDS education package by my department.

I would like to advise that a number of condoms were placed on tables in the Strangers' Lounge during the launch by representatives of the WorkCover Authority.

I understand that the WorkCover Authority did not ask your permission to place the condoms on the tables, and I apologise for their failure to do so.

However, I would like to point out that at no time were condoms being distributed. They were on the table as part of an information display.

Yours sincerely

Hon. (Mrs) Kerry Chikarovski, MP

It is obvious from the Minister's reply that she was not fully aware of what was happening as she was attending a reception in the strangers' dining room. At the entrance to the members' dining room there was a table which displayed the name tags of visitors, a table on which there were information kits and a table on which there were a large number of condoms, which were being distributed. I placed the condoms which were on the table back into a box which was under the table. Without counting the condoms I would say that the box contained about 500. Other members think that the box contained 1,000 condoms, but it was a very large box and it was full.

It is obvious that the Minister is under a misapprehension. She might not have been distributing the condoms and she might not have authorised their distribution, but apparently someone from her staff was gaily distributing them to all and sundry. Guests and members entering the members' dining room would have assumed that this was an official function - which it was - and that the condoms were being freely distributed. If the condoms were available at a private function - and that is where they should have been - I still would not support it. The Minister's reply implies that condoms were being distributed in the Stranger's Room at a reception, but in fact they were being handed out at the entrance to the dining room, at a point where all members and visitors in the company of members have to pass. The condom was clearly labelled "Safer Sex Now Not Tomorrow". No one could miss seeing them - given the large quantity that were available. Though I accept - as I am sure all members of this House do - the Minister's apology both to this Chamber and to the other place -

**The Hon. J. R. Johnson:** It is not good enough.

**Reverend the Hon. F. J. NILE:** - it is not good enough because she is labouring under a misunderstanding. It may be that the blame can be sheeted home to her staff. She may not have been fully aware of what was happening or how she was being manipulated. I hold up for honourable members to see one of the packets of condoms that were being distributed. One could not miss seeing them. There were bundles of them on a table and I removed one of them. I feel strongly about this matter because at the time I was with a guest of this Parliament, an official representative of the Russian Federation. She is a specialist from the Ministry of Education. That country is in a vacuum following the rejection by its people of communism, and she is seeking to replace it with Christian values. [*Time expired.*]

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## FAIRFAX ORGANISATION PUBLICATION

**The Hon. FRANCA ARENA [5.22]:** I want to bring to the attention of the House a newsletter that was sent to me last year. It is entitled "Inside Fairfax", and it was published by Fairfax House Committees. I congratulate the journalists of the *Sydney Morning Herald* and the *Age*, who had the courage to write this newsletter, and I assure them that their concern for endless cost cutting in their newspapers is shared by many people in the community and by members of this House. Last night the Deputy Leader of the Opposition expressed similar concerns in this Chamber, though I did not think the ethnicity of the person in charge of the *Sydney Morning Herald* had any relevance. We all understand that in any big enterprise, big business, at times cost cutting is necessary. Nobody would dispute that. The newsletter stated:

The long term future of the company can be assured only if quality is maintained and editorial budgets are realistic. If the Fairfax papers are allowed to plunge into mediocrity, they will be swallowed up by other forms of media. Only by remaining a high quality reservoir of ideas can we remain relevant.

The newspapers have long been dedicated to accuracy, fairness and a culture of robust inquiry and disclosure, through some of the best reporters and commentators available.

Our readers continue to expect no less from the present owners and we can no longer stand by and watch the steady erosion of the quality of our papers.

I have been in Australia since 1959. When I arrived I could speak English, as I studied the language for a year in London. One of the journals I relied on to help my understanding of my new country was the *Sydney Morning Herald*, though most of the time I found it too conservative in its editorial, but always informative and fair. I also remember the delight of the ethnic communities in 1976 when the *Sydney Morning Herald* appointed for the first time in Australia a full-time ethnic affairs reporter, Isabel Lukas. Even in that the paper was a pioneer.

It is tragic that such an eminent newspaper has reduced its coverage of foreign affairs. In fact three foreign postings have been abolished and the two newspapers share a single correspondent to cover stories in Britain, Western Europe and the Middle East. The *Age* has 16 fewer staff members compared to its complement last year. When arguably Sydney's biggest story of the decade - our bid for the Olympics - was reaching its climax in Monaco the

*Sydney Morning Herald* decided to send only one reporter to cover the event. Another journalist went, but his fare was paid for by the Australian Olympic Committee, and that is a shame. While the executives of newspapers grow rich their readers are starved of information.

I seek the leave of the House to incorporate in *Hansard* a small table from the Fairfax Annual Report of 1993, which shows the salaries that newspaper executives receive - salaries that the Prime Minister, who has the responsibility of running the country, only dreams of.

**Leave granted.** [See *Addendum*.]

Some executives of that organisation earn salaries ranging from \$1,100,000 to \$1,660,000. It is just unbelievable. I am very concerned about this situation as I am sure are the millions of readers of the *Sydney Morning Herald* and the *Age*, two very important Australian icons, whose staff need our full support.

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*Addendum*

Executive Salaries	1992	1993
\$100,000-\$149,999	4	11
\$150,000-\$209,999	2	9
\$210,000-\$259,999	1	10
\$270,000-\$369,999	1	5
\$390,000-\$489,000	0	5
\$510,000-\$519,000	0	1
\$570,000-\$579,000	0	2
\$590,000-\$599,999	0	3
\$640,000-\$649,000	0	1
\$710,000-\$719,000	0	1
\$800,000-\$809,999	0	1
\$1,000,000-\$1,099,999	0	1
\$1,100,000-\$1,109,999	0	1
\$1,660,000-\$1,669,999	0	1

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**Motion agreed to.**

**House adjourned at 5.25 p.m. until Tuesday, 12 April 1994, at 2.30 p.m.**

**QUESTION UPON NOTICE**

The following question upon notice and answer was circulated in *Questions and Answers*:

**UNIVERSITY OF NEW SOUTH WALES FACULTY OF ARTS AND SOCIAL SCIENCES**

Mr Egan asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier -

Can you confirm that Mr Fred Linker has been awarded this year's university medal in the Faculty of Arts at the University of New South Wales?

Answer -

There is no single university medal for the Faculty of Arts and Social Sciences at the University of New South Wales but various medals which may be awarded for the honours majors in the faculty each year.

As was recently published in the *Sydney Morning Herald*, Mr Fred Linker was awarded a university medal from the Faculty of Arts at University of New South Wales for a combined double major in political science and french. This medal is one of four awarded so far in the faculty of Arts for 1993 results. There are other nominations for medals still to be considered.

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