

LEGISLATIVE COUNCIL

Wednesday, 21 September 1994

The President (The Hon. Max Frederick Willis) took the chair at 2.30 p.m.

The President offered the Prayers.

PETITIONS

Anti-Discrimination (Homosexual Vilification) Legislation

Petition praying that because the homosexual vilification amendments to the Anti-Discrimination Act censor criticism of homosexuals, they be repealed, received from the **Hon. Dr B. P. V. Pezzutti**.

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**.

PROFESSIONAL STANDARDS BILL

Second Reading

Debate resumed from 14 September.

The Hon. B. H. VAUGHAN (Deputy Leader of the Opposition) [2.35] The core of the Professional Standards Bill is that it constitutes the Professional Standards Council. One of its functions is to approve schemes that it has prepared for limiting liability, or schemes submitted to it for approval by a professional association. Another function of the council is to assist professionals and others to improve their occupational standards. I move:

That the question be amended by the omission of the words "now read a second time" with a view to inserting instead:

- (1) Referred to a Select Committee for investigation and report, with particular reference to:
 - (a) the Professional Standards Council, complaints and disciplinary matters and compulsory insurance;
 - (b) the guidelines for assessing maximum professional liability thresholds, profession by profession; and
 - (c) a definition of which professions or occupations are to be covered by the legislation.

- (2) (a) That, notwithstanding anything to the contrary in the Standing Orders, such Committee consist of eight Members comprising:
 - (i) 4 Government Members;
 - (ii) 2 Opposition Members;
 - (iii) 1 Australian Democrat Member; and
 - (iv) 1 Call to Australia Member; and
- (b) That the Members of the Committee are to be nominated in writing to the President by the Leader of their respective parties.
- (3) That the Leader of the Government and Leader of the Opposition may nominate in writing to the Chairman of the Committee prior to any meeting of the Committee an alternative Member to represent an appointed Member, if that Member is unavailable to attend the meeting.
- (4) That, notwithstanding anything to the contrary in the Standing Orders, the Chairman of the Committee have a deliberative vote, and in the event of an equality of votes, also have a casting vote.
- (5) That the time and place for the first meeting of the Committee be fixed by the Clerk of the House.
- (6) That the Committee have leave to sit during the sittings or any adjournment of the House; to adjourn from place to place; to make visits of inspection within New South Wales and other States and Territories of Australia; and have power to take evidence and to send for persons, papers, records and things; and to report from time to time.
- (7) That should the House stand adjourned and the Committee agree to any report before the House resumes sitting:
 - (a) the Committee have leave to send any such report, minutes of proceedings and evidence taken before it to the Clerk of the House;
 - (b) the documents shall be printed and published and the Clerk shall forthwith take such action as is necessary to give effect to the order of the House; and
 - (c) the documents shall be laid upon the Table of the House at its next sitting.
- (8) That the Committee report by Tuesday 15 November 1994.
- (9) That, upon receipt of a request from the Committee for funding, the Government immediately provide the Legislative Council with such additional funds that the Committee considers necessary for the conduct of its inquiry.

The legislation has the potential to be epoch making. By way of background, members of professional bodies affected by this legislation number 30,000 in New South Wales and over 100,000 nationwide. The professions seek a statutory cap on professional liability. They claim that they face "the real possibility that they and their partners" - particularly in the area of accountancy - "will be made bankrupt . . . for consequences that are substantially not the result of their actions". In short, accountants in particular believe that unlimited professional liability threatens the viability of that professional sector. Some professional bodies actually feel that having public indemnity insurance encourages larger claims.

In the last 10 years professional indemnity, or PI, insurance premiums - it is now politically

correct to describe them in that way - have increased sharply, coinciding with a decrease in the availability of
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insurance. Insurers are perceiving the risks of massive payouts on professional negligence claims to be too great and are retreating from the insurance market. This has resulted in an increase in what is termed in the industry as coverage gap, that is, the difference between a claim and the available insurance cover. It has been put to the legislators that we need to have some limits. We could place a reasonable limitation on auditors' liability, with corresponding mandatory PI insurance, so investors and clients have the certainty of a known level of protection. If there were a gap of \$1,000 million, as in the case of a claim against a firm of chartered accountants at present - and commonly known as \$1 billion - that would be the maximum that the aggrieved could recover. These are fanciful figures, but not so distant.

At present there is no such certainty. Furthermore, unlimited liability is leading to the development of overcautious attitudes and, in some cases, defensive overservicing and greater expense. Some leading silks in this community have overcome this liability problem - but, of course, they are in a rather privileged position when it comes to being sued. Some of the most prosperous silks in the community have avoided such a problem by giving written advice and, after 20 or 30 pages, suggesting, "You might have a case and you might not". Services with a greater risk of liability are being curtailed and defensive practices are being adopted. Ultimately, this results in a less than optimal level of services being provided to the community, at greater cost and to the detriment of consumers and the community.

The Council of Professions acknowledges that the limitation of liability should be linked to higher standards of professional conduct, education and quality control and should be directly tied to compulsory insurance. The statements I have just made, which are the result of correspondence sent to me and to other honourable members, without doubt have a great deal of strength. I hope - and this is the rub - that if the committee were established, it would consider the problems involved because of the absence of similar legislation in other States and Territories. So many firms of solicitors, accountants, engineers and architects in particular are transcontinental. One is able to obtain the advice of one's firm in Perth when liabilities arise in the State in which one conducts one's business, or some of one's business, 4,500 kilometres away from Perth, namely, New South Wales.

If New South Wales has a cap and other States do not - even if one State does not - why would major business operations not migrate to what I would term the capless State? This legislation will not work until it has been rendered national legislation. That might be a matter for the annual meeting of Commonwealth and State Attorneys-General. The committee could offer advice on codes of practice and ethics, methods of resolving complaints and methods of disciplinary action. This advice could be distilled from evidence or submissions from interested parties. The legislation is vague where it ought be positive; it begs many a question. Indeed, it begs this House to hasten slowly on this crucial concept, which is embodied in the legislation but which has not been spelt out. I for one believe that ideally legislation such as this ought to have been laid on the table of the Parliament at the beginning of this year so that it could be adequately dealt with here and now. A report by 15 November will enable better legislation to be enacted this session. For those reasons I urge honourable members to support my motion.

The Hon. J. M. SAMIOS [2.45]: I give strong support to the Professional Standards Bill. In Australia, as in the United States, we have seen the proliferation of law suits initiated against professionals for unlimited damages claims on a scale that is staggering. New developments in law have opened up the way for new avenues of litigation and the payouts of such litigation have risen sharply in the last few years. There is a tendency under the present system of joint and several liability to launch liability actions, not against the professional most responsible but against the member of the delivery team with the most substantial assets and insurance. An unfortunate consequence of this is that professionals, previously willing to bear the brunt of the consequences of their actions, now find that they are unable to afford professional liability insurance to cover the payments which may arise from an unlimited claim.

There are a number of further consequences: professions will take an unduly conservative approach in the conduct of product and service provision. We have seen that happen here at a staggering pace of knots. The professionals may pass on their higher costs to the consumers, making professional services too

expensive for all save the wealthy and the corporations. The community will gradually become less and less able to afford professional services. Where such services are essential to the health, safety and welfare of the community it will become necessary to direct revenue towards maintaining necessarily highly priced services at the expense of other highly desirable services. A more alarming response, however, has been for a number of professionals to forgo insurance at all, operating with no consumer protection.

More alarming still is the possibility that certain vital professional services will become altogether unavailable as professionals become unable to afford liability insurance and unwilling to operate without it. There is already ample evidence to suggest that the medical profession is approaching this situation. The Government considers it necessary and imperative to introduce a mechanism to limit the personal liability of a professional whilst at the same time ensuring that professional standards are maintained and monitored by individual professional associations. It has become accepted that risk is the inevitable consequence of any activity, whether that activity be commercial, cultural, social, sporting or whatever. We have dealt with risk through insurance for many years and would continue that system.

Under the Professional Standards Bill liability will be capped for members of professional associations which can meet a strict set of conditions.

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This bill - this pathfinding legislation - will create a professional standards council, which will consider schemes drafted by individual professional associations to limit liability of their members. It opens a dialogue with the particular professional associations. However, the associations will have to demonstrate that the scheme compels members to have professional indemnity insurance to ensure that consumers may seek at least a minimum amount of damages if they lodge a successful claim; that they have in force satisfactory requirements for qualifications and current experience; that they have set in place a risk management standard; and that they have ensured that their members have access to appropriate educational and support programs to help them to establish and observe suitable risk management strategies.

It gives me great pleasure to acknowledge that such conditions will inevitably lead to a higher level of services being provided for the benefit of the people of New South Wales and an increase in self-regulation, without the need for consistent government monitoring. There will also be safeguards in the operation of the legislation and of the schemes that are drafted. Limitation of liability will not apply to cases involving death or personal injury, nor to cases alleging misconduct, fraud or dishonesty. There will be full disclosure of any limit of liability to clients and there will be a complaints system to allow for proper redress of complaints. It will be left up to each association to decide whether it wishes to participate in the scheme and to seek to protect its members. So there is a voluntary aspect about the scheme. However, the Government is confident that there will be unanimous support from professional associations for this new arrangement, a number of whom have already sent in strong letters of support. It is confident also that all associations will apply for acceptance of a professional standards scheme.

The Professional Standards Bill will ensure that professionals will continue to have liability insurance, thus protecting both the profession and consumers. Also, it will bring about a higher level of service and product provision from professionals in this State. Under the scheme the community can be assured of a new level of self-regulation - and I emphasise that - on the part of professional associations. Consumers can be confident that the professionals they deal with are trained in risk management, will meet a new minimum standard, are insured to a certain level, and that, in the event a claim is lodged, there are sufficient funds to meet that claim, and there is a just and fair complaints procedure in place to redress further grievances.

Professionals in the course of their advisings must not be overly distracted by the prospect of expensive and non-affordable litigation and damage suits. This bill will ensure that sensible and practical measures exist to protect both the extent of liability of professionals and a higher minimum standard of service provision that a consumer can expect from a suitable qualified professional. This is pathfinding, statesmanlike legislation of a kind that is in great demand in this State and, indeed, throughout the Commonwealth - of that there is not the slightest doubt.

It is an indictment of the Opposition that it seeks to amend the bill by referring it to a select committee. It is the reality that the factions of the Labor Party have not quite made up their minds about the legislation and, in accordance with their normal tradition, are prevaricating in support of the legislation. Honourable members opposite speak of hastening slowly. They have been hastening so slowly that they are dead on their feet, and that is why the Labor Party will remain in opposition after the next election. It would be counterproductive to refer this matter to a select committee. I support this marvellous pathfinding legislation and commend the Attorney General for it.

The Hon. ELISABETH KIRKBY [2.54]: On behalf of the Australian Democrats I support the legislation. At the outset I make it clear to the Opposition that I do not intend to support its amendment. This bill will introduce a limit on liability for members of professional and other occupational associations. It also includes additional consumer safeguards to be contained in new professional standards schemes. Under current laws there is unlimited liability for professional negligence. However, there has also been an expansion of claims made and, of course, this has led to an increase in professional indemnity insurance premiums and deductibles, with such insurance cover becoming more difficult. There is also the rule of joint and several liability under which a number of professions - for example, auditors - practise. This means that a professional is held liable for a damages claim even in circumstances in which his or her contribution to the loss is minor. The result is that the amount that those suing professionals can claim is limited by the level of professional indemnity insurance and the professional's personal assets.

Given the state of play, many professionals have been reducing their insurance cover, or not taking out insurance cover at all. This means that even when a client wins a case there is no guarantee that he or she will be paid. Other consequences of the current situation include the impact of claims attracted by the belief that all professionals hold professional insurance on the court system. The impact of liability claims on costs is borne by the community through the resulting increase in the cost of professional services and the ability of the courts to deal effectively with larger cases. A recent example of this was when the Victorian Supreme Court recommended to the parties in the Tricontinental case that they seek to settle.

The Australian Democrats accept the policy behind this bill, that it is better to have a guarantee of payment for the majority of claims than to have a system of unlimited liability with no certainty of payment at all. This is also necessary to prevent a further deterioration in the insurance market. We approve of the fact that limitation of liability will only apply to liability for financial loss and it will not

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apply to claims for death, personal injury, breach of trust, fraud or dishonesty. Surely this in itself is sufficient to protect consumers who have been done very grave injustices. Under the mechanism established by the bill, a professional or occupational association may apply for a professional standards scheme. This scheme includes a cap on liability and requirements for compulsory insurance, risk management and a complaints system.

The Professional Standards Council established by this bill will be responsible for making, amending and revoking the schemes. Of course, the procedures for doing this will involve public consultation and testing. The scheme will set a threshold under which claims must be met in full. The bill provides that this must be at least \$500,000. Perhaps the Attorney will, in reply, address the question of whether the sum of \$500,000 is sufficient. Currently the limit of liability for solicitors is \$1.1 million. I ask for assurances that the limits, at least for solicitors, will not be reduced from this level, and it may be necessary to increase the liability for other professionals from \$500,000, as suggested, to \$1 million. An important provision of the bill is that there should be disclosure of the fact that there is restricted liability in letterheads and on other business documents so that these come rapidly and easily to the attention of a client or potential client. This will mean that consumers are made aware of professionals belonging to the scheme from the time they start dealing with them.

The proposals of the scheme will provide important new safeguards for consumers, and at the same time they are realistic about the need for limits. I agree that consumers will be assured that members of a professional association hold appropriate indemnity insurance, and clients will know that risk management strategies are in place. They will also know that under the scheme they will have recourse to a complaints system. In common with many other members I have received voluminous correspondence on this matter from a variety of

professional associations. The Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants stated in their letter:

A survey of premiums and unrecouped litigation costs of the big six firms last year showed that they averaged approximately \$60,000 per annum per partner and this would have increased since then. Yet increasingly insurers are perceiving the risks of massive payouts on professional negligence claims to be too great and therefore they are retreating from this market.

Correspondence was also received from the New South Wales Council of Professions, representing the Law Society of New South Wales, the New South Wales Bar Association, the Australian Dental Association, the Australian Medical Association, the Australian Veterinary Association, the Royal Australian Institute of Architects, the Institution of Engineers of Australia, the Royal Australian Chemical Institute, the Institution of Surveyors, the Pharmaceutical Society of Australia, the Australian Institute of Quantity Surveyors and the Australian Physiotherapy Association - a wide group of professions indeed. The council stated in its letter that it represents 14 professional associations with a combined membership of 90,000 in New South Wales. Most of these bodies, in turn, have national coverage in that their membership is affiliated with a national body. The letter stated:

A statutory cap on liability, as proposed by the Professional Standards Bill 1994, is seen by the NSW Council of Professions as an essential reform, without which many professionals risk exposure to significant personal liability far in excess of the sums that can be covered by reasonably available PI insurance. At the same time, the Bill ensures that funds will be available to meet established claims against professionals.

A similar letter from the Institute of Chartered Accountants in Australia stated, in part:

This state of affairs, which is already upon us, has significant adverse effects for both professionals and for consumers of professional services, including those with legitimate complaints against professionals in respect of the services they have received. It is of little use to plaintiffs that, under the present open-ended system of professional liability, they can seek unlimited damages through litigation that they have no possibility of recovering. Indeed they may receive very little compensation as professionals divest their assets and seek not to insure because to do so only encourages the bringing of suits against them which in any case may far exceed their cover.

The Insurance Council of Australia Limited wrote a letter supporting the proposed legislation and the capping of liability in particular. Further correspondence and a submission of views have also been received. The Royal Australian Institute of Architects and the New South Wales division of the Australian Society of Chartered Professional Accountants sent me a document prepared by the National Joint Limitation of Liability Task Force. If these responsible bodies are in favour of legislation which impacts so strongly on their professions, we can be confident that the proposed legislation meets the needs of the professionals involved and that it will meet the needs of consumers. I would not have received a letter from the Redfern Legal Centre in favour of the legislation if it did not support consumers. The Redfern Legal Centre hardly represents the big end of town. That letter stated:

The Bill is designed to provide a mechanism to limit the liability of professional and other occupational service providers. Since the limitation of liability does not apply to personal injury claims or claims based on breach of trust, fraud or dishonesty, our view is that it will not disadvantage the majority of complainants.

The Redfern Legal Centre appears to be convinced that complainants will be better off once the measure has been passed. I cannot understand why, in the run-up to a State election, the Opposition would wish to refer the bill to a select committee. The effect will be that the bill will not be passed before the House rises at the end of this year. That means it will not be passed before the State election, and nearly 12 months will elapse before the legislation is passed into law. That will not be of any advantage to the professions or to complainants. That situation is not satisfactory. The Institution of Engineers said in a letter that it represents more than 63,000 members in Australia, 18,000 of whom reside in New South Wales. The institution stated further:

In a case currently before the NSW Supreme Court, a retired engineer charged with negligence has no professional liability insurance. In the United States, many obstetricians have elected to "go bare" - mainly because the costs of insurance have escalated to unreasonable levels. The result of going bare will adversely affect consumers of professional services in New South Wales, who will be unable to recover compensation in the event of unsatisfactory service.

Soaring insurance costs mean, in the end, the whole community pays the bill for large settlements achieved by those individuals and organisations who are able to pursue litigation.

They are not ordinary people. The letter continued:

If this eventuates, Australia will follow the path of other countries where excesses exist and where only the wealthy can afford professional services . . .

The community must be protected, and we fully accept and endorse the view that members of all professions must be held accountable for any failure to perform in accordance with accepted standards of integrity and competence.

The liability capping schemes proposed in the Bill would require that all professional associations develop and promulgate clear risk management strategies with which their members would have to comply, adopt open and credible schemes for dealing with complaints, and make adequate professional liability insurance mandatory for all practitioners.

That is a most sensible letter. I would also say, in conclusion, what the Institution of Engineers stated at the end of its letter, which was signed by its President, Mr Douglas H. Clyde:

However, I would wish to conclude by emphasising that the Professional Standards Bill 1994 marks an important step forward, in at once protecting consumer interests, creating a legal environment in which professional engineers are encouraged and supported in their efforts to assist clients by designing, developing and delivering products and services which match or set world best practice, and giving the State of New South Wales a competitive edge as a base from which to deliver professional engineering services.

This applies not only to engineers but also to doctors. Obstetricians in New South Wales are not the only ones who are deciding to remove themselves from the practice of obstetrics because they cannot afford the high cost of insurance; I know from members of my own family that psychiatrists are concerned also. The Hon. Dr B. P. V. Pezzutti probably feels much the same about his professional specialty, anaesthesia. I believe this legislation is necessary and that it should not be delayed. Maybe the Opposition would like to reconsider its position before it is too late. I support the legislation before the House.

The Hon. HELEN SHAM-HO [3.12]: I too support the Professional Standards Bill. I commend the Attorney General for bringing forward this essential law reform, which is overdue. The measure will benefit the community and send a signal to the public of its significance and importance to professional liability. I will oppose the amendment of the Deputy Leader of the Opposition because I believe it is unnecessary and that the legislation should not be delayed. The Professional Standards Bill relates to professional civil liability, not personal injury, and covers only financial loss. The bill will introduce limited liability for members of professional and other associational organisations. It has arisen out of the growth in the number of negligence claims against professionals, which has resulted from an increase in consumer rights awareness, the greater complexity of the work and the developing tendency to extend the emphasis on duty of care liability. In short, professionals are much more exposed to liability because the public is much more aware of its standing to litigate in respect of professional negligence.

The bill recognises the importance of consumer protection, therefore requiring professional and occupational associations to insure their members and to implement provisions for risk management strategies. The

consumer is therefore assured of being able to claim that damages be awarded in the event of successful prosecution of a professional. Without limited liability the cost of professional indemnity insurance has increased dramatically. The Hon. Elisabeth Kirkby gave as an example of potential liability and the cost of insurance the settlement in January by the national accounting firm KPMG Peat Marwick of the \$1.1 billion Tricontinental claim for \$136 million. That settlement was an Australian record for professional negligence damages. This year KPMG has also been threatened by the South Australian Government with a record damages claim of \$1.5 billion for the financial losses of the State Bank of South Australia.

The ramifications of such claims are obvious. The cost of professional indemnity insurance has so skyrocketed that many professionals question whether they can afford insurance. Those who decide to take out policies place the burden of the huge expense on the client or consumer. Therefore the client or consumer could benefit as much from the institution of limited liability as the professionals. In short, everybody wins with this bill. The four clear objectives of the bill outlined precisely in clause 3 are:

- (a) to enable the creation of schemes to limit the civil liability of professionals and others;
- (b) to facilitate the improvement of occupational standards of professionals and others;
- (c) to protect the consumers of the services provided by professionals and others;
- (d) to constitute the Professional Standards Council . . .

The function of the council is to supervise the carrying out of the first three objectives. The bill will protect the first \$500,000 of a claim from any limitation of liability. Therefore, the majority of claims, and all consumer claims, will be met in full. It is evident that the scheme proposed under the Professional Standards Bill will set in place a number of measures to protect the position of the consumer, at the same time providing for schemes that will enable professionals or others to limit their liability. Like other honourable members I have received a number of supporting letters from various professional organisations - a strongly supportive and clear letter from the President of the Institution of Engineers, Australia, Douglas Clyde, and letters from the President of the Institute of Chartered Accountants in

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Australia, Peter Jolley, and the President of the Australian Society of Certified Practising Accountants, Robert Jeffrey.

From my point of view the most important letter was that from the New South Wales Council of Professions. The council comprises 14 national professional bodies, covering law, dental, medical, veterinary, architectural, engineering, pharmaceutical, chemical, accountancy, surveying, and physiotherapy. The various professional bodies voice their strong support for the Professional Standards Bill. A letter dated 20 September from Chester Porter, the President of the New South Wales Council of Professions, summarises the importance of the bill to both the professional and the consumer:

In advocating limitation of liability, the NSW Council of Professions is seeking an equitable solution for both professionals and their clients. A fairer balance between professional risk and reward is needed, one where professionals can obtain adequate insurance at reasonable cost.

I support the bill and commend the Government and the Attorney General for proposing the legislation.

Reverend the Hon. F. J. NILE [3.18]: The Call to Australia group is very pleased to support the Professional Standards Bill. The object of the bill is to provide a general means whereby the civil liability of professionals and others may be limited and, at the same time, to put in place provisions which are designed to facilitate improvement in the standards of services provided by professionals and others in order to protect the users of those services. The bill enables the members of an occupational association to be covered by a scheme to limit their civil liability. The scheme may limit liability in either of two main ways - or by a combination of them. The first way limits liability to a specified amount if insurance against civil liability is held to that amount or if business

assets are retained to that amount. The second way limits liability to a multiple of the cost of providing the service from which a liability has accrued.

The bill will constitute the Professional Standards Council. One of its functions is to approve schemes for limiting liability which it has prepared or schemes submitted to it for approval by a professional association. Another function of the council is to assist professionals and others to improve their occupational standards. Obviously there must be some protection for the consumers, and the bill provides that. To balance the limitation of liability with appropriate measures for the protection of consumers, the bill contains provisions enabling the introduction of compulsory insurance, the monitoring of claims in order to establish a claims history, the implementation of risk management strategies, annual reporting and measures for dealing with complaints and disciplining persons against whom complaints are substantiated.

Call to Australia supports the bill. Therefore, it will not support the Opposition's amendment, which is basically a delay mechanism often used in this House. I accept the statement that that is because the Opposition has not yet made up its mind about policy on this legislation, although I am suspicious that there may be more opposition to the legislation than members of the Opposition have indicated. If the bill were referred to a select committee and that mechanism delayed the passing of the bill until the next election, I doubt whether this type of legislation would be forthcoming if the Labor Party won the election.

The need for this type of legislation has been clearly demonstrated by events in Australia as well as in the United States of America, where people litigate on the slightest excuse, and millions of dollars are often awarded. Many cases in the United States relate to personal injuries, which the proposed legislation does not cover. If this bill is unsuccessful, a similar situation may develop in Australia. Many doctors are reluctant to work in specialties that attract high awards, such as prenatal and obstetric care. Unfortunately, no matter how much care the doctors take, some premature babies die or are born with defects and the doctors are sued.

The proposed legislation will provide some degree of protection for lawyers, dentists, medical practitioners, veterinarians, architects, engineers, chemists, chartered accountants, surveyors, pharmacists and quantity surveyors. Modern society could not function without these important professions. It is necessary to encourage people with the ability and inclination to perform these roles to take up professions without the threat of future litigation. In the Cambridge Credit Corporation case a judgment for \$145 million was set aside by the Court of Appeal but the case later settled for \$19.5 million - the amount of insurance held by the audit firm. Insurance policies become an incentive for people to litigate.

In the Tricontinental case a claim of \$1.1 billion was settled for \$136 million. The State Bank of South Australia claim of \$3.1 billion, which remains unresolved, has had a dramatic impact on South Australia, and particularly on the Labor Party in that State. The Beneficial Finance Company claim of \$1.1 billion is unresolved. Discussions have been held on the need for this legislation since 1989. The discussion paper entitled "Professional Liability - Regulation Insurance and Risk Management", published by the legislation and policy division of the Attorney General's Department in September 1989, stated:

Proposals to limit liability are based on claims that the insurance mechanism is no longer functioning in an effective way and is in fact placing an undue burden on the professional.

At present, for most professionals the sole decision whether to insure against liability, and if so up to what amount, rests exclusively with the individual practitioner.

Under these arrangements, the individual client has no means of knowing or ensuring whether the professional is insured at all or will be when the claim arises, and if so up to an amount which would cover any likely claim by that particular client. Of course the vast majority of claims will be reasonably modest in amount. It is submitted that any

limitation of liability should be set at a figure which will completely cover the general run of claims from the great majority of ordinary clients.

The discussion paper continued:

In so far as a professional sets the level of insurance far above the level of the general run of claims from the great majority of clients, in order to cover the risk of a small minority of very high claims, then premiums will rise accordingly.

One of the objects of the bill is to keep insurance and insurance premiums within reasonable amounts. If claims are not capped, insurance premiums will increase dramatically and the extra premium will be reflected in fees. The consumer will bear a heavy financial burden. The document continued:

In this situation the great majority of clients are, to their disadvantage, paying higher fees which support levels of insurance beneficial only to the small minority of clients who are the potential high claimants.

The present system of unlimited exposure to liability produces serious consequences to a professional if called upon to meet a claim where there is a substantial gap between the amount claimed and the amount covered in insurance - a gap which may only be closed to a small degree by the realisation of the professional and his or her partners' assets in a bankruptcy. Such a system offers little satisfaction to the plaintiff whose judgment goes unmet; nor is it necessarily in the public interest to force professionals out of practice in such circumstances.

The other point raised in this discussion paper was:

The other major policy issue is the effect unlimited liability has on the practice of various professions. It is in the interest of the public that members of professions should conduct their practices in a forthright manner. Undue exposure to financial risk may well lead the professional to conduct the practice in an over-cautious way, to the client's detriment.

I have sought legal advice from various legal practitioners on defamation arising from press releases and other statements issued to the media. Legal practitioners are so cautious that if members of Parliament followed their advice, they would never say anything in public in case what they said was used in a defamation case. One can become so overcautious that the advice becomes meaningless because the lawyers will not make a distinction between a high-risk statement and a statement that carries no risk. Legal practitioners, barristers and solicitors favour an overcautious approach, which means doing nothing and saying nothing. If the legislation is not passed that situation will develop. I received a very good representation from the New South Wales Council of Professions, which wrote to me on 20 September. I will quote from the letter, which was signed by Chester Porter QC, President of the New South Wales Council of Professions:

Dear Mr Nile,

The New South Wales Council of Professions represents 14 professional associations with a combined membership of 90,000 individuals in New South Wales. Most of these bodies in turn are national in their coverage and membership or are affiliated with national bodies.

It is essential that the professions be maintained as a strong, vital and independent source of expertise in our community. However, unlimited professional liability threatens to endanger the very existence of a viable, high quality professional sector.

Unlimited liability for professionals is leading to the development of overly cautious attitudes; services with a greater risk of liability are being curtailed and defensive practices adopted. Ultimately, this will result in a less than optimal level of services being provided to the community at greater cost, to the detriment of consumers of services and the community generally.

At a time when there is considerable pressure on professionals to contain the cost of the services they provide, their exposure to

unlimited liability may by necessity lead to defensive over-servicing and greater expense.

Over the course of the past decade, damages claims and litigation against professionals have increased dramatically. This is mainly due to the fact that professionals often possess the most obvious source of assets against which a plaintiff may recover, namely the professional indemnity (PI) insurance of the firm and its assets, together with the personal assets of the individual professionals. As a consequence, PI insurance premiums and deductibles have risen markedly, whilst at the same time commercial insurers have increasingly withdrawn from the PI market, particularly at the higher end where such cover is just not available at the levels required.

Given the rising cost and declining availability of PI insurance, under the present system there is simply no guarantee that assets will exist to satisfy successful awards against professionals.

In advocating limitation of liability, the NSW Council of Professions is seeking an equitable solution for both professionals and their clients. A fairer balance between professional risk and reward is needed, one where professionals can obtain adequate insurance at reasonable cost.

A statutory cap on liability, as proposed in the Professional Standards Bill 1994, is seen by the NSW Council of Professions as an essential reform, without which many professionals risk exposure to significant personal liability far in excess of the sums that can be covered by reasonably available PI insurance. At the same time, the Bill ensures that funds will be available to meet established claims against professionals.

The NSW Council of Professions accepts the proposition that limitation of liability should be linked to high standards of professional conduct, education and quality control. Most of the bodies under the umbrella of the Council have such systems in place and there is certainly widespread acknowledgment of the importance of effective risk management in containing and limiting professional negligence claims.

This is also recognised in the Professional Standards Bill 1994, which ties limited liability to compulsory insurance (and/or asset availability) and risk management procedures.

It is the firmly held view of Council that passage of this legislation by the NSW Parliament in the near future is imperative as it serves the interests of consumers as well as the professions. This is an important priority for all professions and the NSW Council of Professions supports the Government proceeding with the Professional Standards Bill 1994 as a matter of significant public importance and benefit to the community.

That letter states the case very clearly and persuasively, and Call to Australia feels confident in supporting this bill. We have received similar letters outlining the positive benefits of this legislation from the Institute of Chartered Accountants in Australia dated 20 September, from the Royal Australian Institute of Architects dated 5 April, together with a detailed and very helpful submission dated March, and from the national office of the Institution of Engineers, Australia dated 19 September. The president of that institution, Douglas Clyde, wrote:

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On behalf of over 63,000 members of the Institution of Engineers, Australia, **some 18,000 of whom reside in New South Wales**, I am writing to urge your support for the passage of the **Professional Standards Bill 1994** through Parliament. This legislation is of vital importance to the community which, under the present conditions of soaring insurance premiums, faces no redress if something goes wrong and the professional is uninsured.

It is obvious that this bill should be passed as a matter of urgency, and it is sad that the Opposition has moved an amendment to the motion that effectively opposes it. If that amendment had been successful, the bill probably would never have seen the light of day. Obviously there is urgency about this matter, and it needs to be resolved. This bill will help to resolve it. We see the benefits of it, and we hope that the Opposition and the Independents in the other place will see the benefits of it, and that it will rapidly be passed into law by both Houses of Parliament.

The Hon. Dr B. P. V. PEZZUTTI [3.45]: My biggest surprise on coming into the Chamber was the intense animosity expressed towards the professions from the public sector, not just from public servants but also

from special interest groups and parliamentarians. At first I thought this emanated from a lack of understanding or envy, but I came to realise that the professions' roles and aims ran counter to many political agendas. I became aware that in the pursuit of a better tomorrow as envisaged by some, the professions and their ethical standards and strong public advocacy were in many instances a stumbling block. The strong campaigns, helped by the media, in pursuit of a better economy and a more equitable position for some group, or changes in behaviour, were beginning to seriously impact on our free society. In a recent speech the Premier said:

The cornerstone of a free democratic society is the rule of law. You only have to look at contemporary examples around the world to understand that if you have the "rule of men" rather than the "rule of law" there are dire consequences for personal freedom, peace and economic prosperity.

In 1944 Congressman Pettingill said that a socialist plan to destroy a free culture must include the following main points. Constitutional guarantees must be swept aside. This is accomplished in part by ridiculing them as outmoded and as an obstruction to progress. Public faith in the legal profession and respect for the courts must be undermined. A great public debt must be built up. A general distrust of private business and industry must be kept alive so the public may not begin to rely upon its own resources. Government bureaus are set up to control practically every phase of the citizen's life. To supplement and fortify all the foregoing, a steady stream of Government propaganda is kept in place, designed to extol all who bow the knee and vilify those who dare to raise a voice of dissent. The principle of local self-government must be wiped out. I believe that the last principle applies to the importance of self-regulation of the professions. Lord Hailsham, a Lord Chancellor of Great Britain, wrote in his book *A Sparrow's Flight*:

In some degree the professional classes are the Cinderellas of the modern economic scene, Cinderellas without a Prince Charming to protect them. They are not part of the workforce and do not belong as affiliates to the [Trade Unions Council].

He was speaking of England. The passage continued:

They are not part of management. Whether they are dentists, accountants, solicitors, surgeons or barristers, their activities are hedged about by somewhat arcane ethical rules, which can easily be misrepresented as restrictive practices, but which, for the most part, are really imposed in the interest of professional integrity and consumer protection.

He went on to say:

The housewife can readily discern the relative value of the services of a butcher, a baker or a candlestick-maker, and her husband and she can readily exercise consumer choice between different makes of motor-car or television set. But what standards should be set before a doctor, a dentist, a chartered engineer, a solicitor, a barrister or an accountant in order to qualify as such? The same difficulty pertains to the respective ethical codes to be observed towards one another by the individual members of what are essentially competitive and, in the case of lawyers, reciprocally adversarial professions.

Lord Hailsham also said:

The marks of a profession are the imposition of a high and uniform qualification of entry, a system of special ethics enforced by a just form of self government, opened to criticism and a determination never to deprive the public of access to our services in order to secure personal or corporation gain.

That is the aim of this bill. As Lord Hailsham pointed out, this legislation will ensure that any participants in these schemes will have a qualification of entry, special ethical principles governing them, a commitment to maintaining standards of practice, a complaints process and a dispute resolution process. Recently in an editorial, Sir John Carrick asked:

Can Government regulatory bodies replace the responsibilities of each and every profession to establish and maintain high ethical standards and a meaningful sense of duty to the community?

This bill will contribute towards the maintenance of standards and provide certainty for consumers. More

important, professions will have to maintain high standards of practice and ethics. That is the intent of this bill. Bernard Levin said:

No doubt your professional body lays down standards of conduct that all its members are obliged to maintain; but every member, separately and solitarily, must lay that burden of responsibility on his own back. It is almost truism to say that the rules imposed by professional organisations are those that would in any case be followed instinctively by their members.

And yet the workings of a strange and sinister phenomenon, unknown before this century, suggest ever before strongly that this attitude, which I imagine most of the people in this hall would accept without demur, is not only rejected by many, but widely denounced as wholly unnecessary and indeed pernicious.

I think he was referring to members of the Labor Party. Sociologist Professor Peter Berger describes in his recent book a new class within the middle class which is dependent upon government subsidisation and which has a strong vested interest in the expansion of government services. Professor Berger says that many in this new class who are employed in the educational system, the communications media, vast guidance and counselling networks and bureaucratic agencies are planning for the putative non-material

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needs of society. This new class is in a deep struggle with the old middle class, which is mostly occupied in the production of goods and services. Professor Berger has declared that the new class is more ideologically left of the old middle class. It is more about power than profits and does not understand why it is not yet running the country. It preys on any group that is seeking more power.

Threats to the professions, which are sometimes subtle, include a number of things. The Commonwealth Department of Immigration has recently decided to set up a registry of advocates. If an advocate takes on and pursues a matter when there is not a good chance of success, he could be taken off the register. The National Crime Authority requires lawyers to report all transactions over \$10,000. We regularly imprison people on the basis that ignorance of the law is no excuse and that access to legal advice is readily available. We then frighten them off with the threat of disclosure of private matters. We know that lawyers are required to never knowingly assist in criminal activity or conceal a felony. Recent comments in the press decry the fact that our most capable young people are doing medicine and law, as though that were some sort of crime. Harm might be done whilst people are practising defensive medicine, law or engineering.

Honourable members would be aware of the sideshow antics of Professor Fels, waving his hands in front of the media and promising to get rid of restrictive trade practices, whatever they might be. While I have been a member of Parliament I have pursued major reforms to health-related professions to ensure that they are independent of the Government and that their accountability to the people is paramount. The new complaints commissioner will be independent of the Government. The new complaints process for the legal profession will be at arm's length from the Government. The profession sets its own standards and is answerable to the Parliament. The complaints commissioner will investigate and prosecute offenders before an independent tribunal. Natural justice is ensured through access to the courts.

I have been active in ensuring that the legal profession climbs to those heights of community trust and accountability. I have worked with engineers and have many friends in the Institution of Engineers. I have made them realise that their performance is valued in the community, and I have tried to attract young people of quality into those professions. We must forestall any attempt to change the nature of the professions. I am encouraged by this legislation, which will extend professional standards and codes of ethics. This legislation will affect every practice in New South Wales. One advantage of it will be the cheaper delivery of goods and services and more professional services in the community. We need an assurance that people in the professions are people of substance, not men and women of straw.

The legislation provides protection for the general public. One's colleagues should perform to the same standards and be subject to the same rules. People in professions should be aware that there are limitations to their exposure to litigation. Insurance premiums should be affordable. This legislation is important; it puts New South Wales professions on the cutting edge of reform. Clearly, this legislation, which is consumer protection

legislation of the best sort, will ensure that the community receives high quality services that are delivered responsibly. Consumers should be protected from hyenas who pick the bones of people with good intent. I support the bill.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [3.48], in reply: I thank all honourable members who have given their support to this legislation. The Australian Labor Party stands condemned for not making a decision in relation to this legislation. In particular, the Leader of the Opposition stands condemned for not getting his parliamentary colleagues to clearly state their position on it. I know that the Leader of the Opposition has gone around the business community in this city and expressed support for this legislation.

Reverend the Hon. F. J. Nile: Mr Carr, the ALP member?

The Hon. J. P. HANNAFORD: Mr Carr, the Leader of the Opposition. He has gone into the boardrooms and said, "We will support this legislation". But when the legislation comes before the House members of the Australian Labor Party try to bury it by referring it to a select committee. A few weeks ago the Deputy Leader of the Opposition, Andrew Refshauge, attacked me on this legislation, so it is not as if this legislation is not known to members of the Opposition. This legislation was first dealt with by the Government in 1988, and a discussion paper was released for comment in March 1989.

The bill, which was then known as the Occupational Liability Bill, was tabled in the Legislative Assembly in November 1990. A further draft was proposed and circulated in January this year. The bill has had an extensive genesis with the opportunity for comment by all of the professional, insurance and consumer organisations around the State. Extensive seminars and discussions have been held in relation to the legislation. It was so well known that the legislation was proposed that the Prime Minister wrote to the Premier expressing his opposition. It is not as if the Labor Party in New South Wales has not known what the legislation is about. It is not as if the various interest groups have not sought access to members of the ALP, with a great deal of difficulty, I have to say. Various consumer groups have approached me expressing their deep concern at being unable to get ready access to representatives of the ALP in order to discuss the bill.

I find that not too surprising, following what has happened in the House today. The purpose of the referral of the legislation is for the select committee to report with particular reference to the Professional Standards Council, the complaints and disciplinary matters, and compulsory insurance. In recent months the Parliament has had before it model legislation that

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deals with complaints, disciplinary matters and compulsory insurance. This has been in the health and legal areas. These two model pieces of legislation give direction and point the way to how it should be dealt with. An examination of the legislation will show that the role of the Professional Standards Council is to ensure that appropriate complaints, disciplinary matters and compulsory insurance are in place. When a scheme is approved notice of that approval must be tabled in this Parliament. If the Parliament does not like what has been done, the scheme will be disallowed. Parliament has sent a clear message as to the direction it expects industry to follow. In the legislation the Parliament has passed relating to the health and legal areas there are schemes for complaints, disciplinary matters and compulsory insurance.

The Opposition wants the proposed committee to report on guidelines for assessing maximum professional liability thresholds, profession by profession, occupation by occupation. Again, the legislation clearly indicates that the Professional Standards Council has that role to play. Parliament has ultimate control because it can disallow the scheme. Then the Opposition wants this select committee to look at the definition of which professions or occupations are to be covered by the legislation. The legislation makes it clear. It is every profession, every occupation, that has the opportunity to develop a scheme that can be brought under this legislation. We are not seeking to constrain, we are seeking to encourage. The descriptions by the Hon. Dr B. P. V. Pezzutti about this being consumer oriented and community protection legislation are very apt.

The Government wishes to make certain that it is able to provide the protection the community

needs and to increase the professionalism of those who provide services within the community. The Hon. Elisabeth Kirkby raised the question of thresholds and liabilities. Clause 26 of the bill provides that all schemes of limited liability will be subject to a threshold up to which damages will be awarded in full. The threshold is set by the Professional Standards Council for each particular scheme that is approved by the council. But that threshold must be at least \$500,000. The figure of \$500,000 represents a reasonable lower limit. It is an increase on the insurance requirements for many of the existing professional groups.

For example, the insurance for accountants under the institute's scheme at present is \$250,000. This will be increased to a minimum of \$500,000. For members of the institute of engineers the insurance is currently \$350,000 but in any scheme in the future the insurance must be at least \$500,000. So the legislation increases the threshold. Clause 49(1) of the bill provides that the legislation does not prevail over other regulatory schemes. Lawyers currently have a statutory insurance scheme with statutory cover of \$1.1 million. This legislation and any scheme developed under it will not have a threshold below that statutory limit while that statutory limit is in place. This threshold is one of the important consumer protection elements of the bill because it means that all claims in full, up to that threshold, must be met.

With that explanation and those comments I indicate that the Government rejects the amendment to the motion for the second reading. I indicate firmly that the Government condemns the Australian Labor Party for not being prepared to take a stand on this legislation. Clearly all the occupational groups in this State will similarly condemn the Australian Labor Party for its position.

Question - That the amendment be agreed to - put.

The House divided.

Ayes, 16

Mr Dyer	Mr Obeid
Mr Egan	Mr Shaw
Mr Enderbury	Mrs Symonds
Mrs Isaksen	Mr Vaughan
Mr Johnson	Mrs Walker
Mr Kaldis	
Mrs Kite	<i>Tellers,</i>
Mr Macdonald	Dr Burgmann
Mr Manson	Mr O'Grady

Noes, 21

Mr Bull	Mrs Nile
Mrs Chadwick	Rev. F. J. Nile
Mr Coleman	Dr Pezzutti
Mrs Evans	Mr Pickering
Miss Gardiner	Mr Ryan
Mr Gay	Mr Samios
Dr Goldsmith	Mrs Sham-Ho
Mr Hannaford	Mr Webster
Mr Jobling	<i>Tellers,</i>
Miss Kirkby	Mrs Forsythe
Mr Moppett	Mr Jones

Pairs

Mrs Arena	Mr Mutch
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Ms Burnswoods

Mr Rowland Smith

Question so resolved in the negative.

Amendment negatived.

Motion agreed to.

Bill read a second time and passed through remaining stages.

DISTINGUISHED VISITORS

The PRESIDENT: I draw to the attention of the House the presence in my gallery of Mr Saburo Tanaka, the newly appointed Consul General of Japan. Also, I have the honour of drawing to the attention of the House that I have in my gallery a delegation from the Parliament of the United Kingdom, led by the Rt Hon. Sir Peter Emery.

Order! Pursuant to sessional orders, business is interrupted for the taking of questions.

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QUESTIONS WITHOUT NOTICE

FARMERS COUNCIL RATE RELIEF

The Hon. I. M. MACDONALD: I direct my question to the Minister for Energy, and Minister for Local Government and Co-operatives. Is the Minister aware of requests from the New South Wales Farmers Association and the Shires Association for rate relief for farmers in drought affected areas of the State? Does the Minister agree that the State Government should pay a grant to local councils to cover the rates of drought affected farmers? Will the Minister be placing before Cabinet a submission to support the position of the New South Wales Farmers Association and the Shires Association that the new rural adjustment scheme criteria concerning drought eligibility should be sufficient to qualify for rate relief? Does the Minister agree that a rate relief scheme would be important for the survival of drought affected farmers, especially as the next set of instalments commences in October? When will the Government implement this vital scheme? I understand the Queensland Government has adopted a similar scheme.

The Hon. E. P. PICKERING: I am surprised that honourable members opposite are aware that there is a drought in this State, despite the fact that a large part of the State has been drought affected for a considerable length of time.

The Hon. J. R. Johnson: How long?

The Hon. E. P. PICKERING: It is a variable period from area to area, as the honourable member well knows. At present 83 per cent of the State is drought affected and only then does the Prime Minister of this country take time off to visit a drought affected area, and then not in this State. I am aware of the suggestion made by local government bodies about rate relief through local government facilities. That matter is being examined by the Department of Local Government. The honourable member would understand that there is not within the budget for the Department of Local Government funds which could be directed to such a rate relief program. However, the Government is sympathetic to the real and desperate plight of not only the farmers in the drought affected areas but also the people who live and work in the country towns associated with those farming

communities.

Obviously the whole community is seriously affected by the drought. The Hon. I. M. Macdonald is assured that, unlike the Federal Government, which has been shown to be especially heartless with regard to assisting people adversely affected by the drought, the New South Wales Government is doing a great deal already, and will continue to do so in very innovative ways. I was reminded only yesterday of a program approved by my colleague to release Crown lands for cattle agistment, and this innovative approach will have some benefit.

DEPARTMENT OF SCHOOL EDUCATION CHAPLAINS

The Hon. HELEN SHAM-HO: Will the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier inform the House about the accuracy of Teachers Federation claims that chaplaincies which exist in some New South Wales schools are illegal?

The Hon. VIRGINIA CHADWICK: I commend the honourable member for her interest in this matter. I note that this topic was of concern to other members and was raised in the adjournment debate yesterday evening. It is of grave concern that such accusations that can cause such alarm in so many areas of New South Wales should come from people who purport to support and defend the public education system in this State. I, too, read with astonishment the recent article in the *Sydney Morning Herald* which said that school chaplains may be illegal. I was mildly comforted when I realised that the claim was made by the Vice-President of the Teachers Federation, Dennis Fitzgerald. Dennis claimed that the appointment of school chaplains contravened both the Education Reform Act and departmental guidelines. Both accusations are indeed serious. I, as Minister, and officers of my department would not wish to be seen as acting ultra vires and contravening our own Education Reform Act, to which many members contributed in debate. To say that I was surprised would be something of an understatement.

With great alacrity I asked Dr Boston, the Director-General of School Education, to thoroughly investigate the claims made by Mr Fitzgerald. I report to the House that the results of the investigation conducted by Dr Boston have revealed a number of matters to me. The first the director-general knew about this matter was when he received a recent letter from the General Secretary of the Teachers Federation, Mr John Hennessey. Mr Hennessey, in his letter, wrote that chaplaincies in New South Wales in public schools "have to be put to a stop". He based this demand on concerns about "religious organisations desirous of establishing a foothold in our public schools".

[Interruption]

The PRESIDENT: Order! The Minister is entitled to be heard. There is too much background chatter.

The Hon. VIRGINIA CHADWICK: The Teachers Federation apparently is concerned about religion gaining a foothold in our schools and about a net widening exercise. The federation is concerned not about the secular nature of our education system but about its multicultural and multid denominational composition. In the article in the *Sydney Morning Herald* Dennis Fitzgerald was quoted as saying:

If they are on about welfarism, why do they have to come from a specific religion or from a particular religious background? It is an insult to those people who do not believe in God or those people who come from non-Christian societies.

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Such statements are fairly inflammatory. It is about time we put the record straight on this important matter. Six schools out of more than 2,500 in New South Wales host chaplains. Those six schools include James Ruse High School, which is soon to confirm its host arrangements. The only reason I singled out James Ruse High School is that it is about to appoint a chaplain. Five other schools have chaplains. Yesterday Dr Boston met with five of the six principals of these schools. They discussed a range of activities currently undertaken by chaplains in schools.

We have confirmed that their role is essentially supernumerary - their contact with students is student initiated. Chaplains are available for counselling and pastoral care. They are usually involved in inter-school Christian fellowship and participate in youth activities and sporting programs. They also assist in the coordination of special religious instruction. They do not perform any religious role at school assemblies, nor do they perform any religious role outside special religious education requirements.

The director-general has therefore been in a position to assure me that there is absolutely no evidence that the activities of chaplains in schools in any way contravene the requirements of section 30 of the Education Reform Act, which states that educational programs should be strictly non sectarian and secular in structure. Section 30 is not contravened. Further, there is no evidence that the presence of chaplains in our schools conflicts in any way with the requirement of the Act under section 32 about the total number of hours of religious instruction each year.

Satisfactory arrangements are in place, as specified by sections 30, 32 and 33 of the Act, to guarantee the rights of any parent to remove his or her child from any contact with the chaplain. Equally, chaplaincy is provided for within the department's own procedures for special religious instruction. It should be noted that no chaplain is employed by the New South Wales Department of School Education. Some of these chaplains work voluntarily, some are funded by the Ministers Fraternal and others by local church groups. In this day and age, when we are urging and imploring parents and community groups to regard education and the welfare of students as a partnership in which we all have to play a part, these claims are counterproductive and destructive.

The Hon. Dr Meredith Burgmann: What about Mitsubishi?

The Hon. Ann Symonds: And Toyota?

The Hon. VIRGINIA CHADWICK: I was sufficiently offended by the Teachers Federation casting aspersions upon community groups that want to raise money to put chaplains into schools to work on welfare and counselling issues with students - I thought those accusations were rich - but now for members opposite to interject and equate this issue with sponsorship by Toyota, Mitsubishi and the like shows where they are coming from on educational partnership. It is a disgrace that members opposite should interject in that way. A range of responsibilities is undertaken by these chaplains. It is a matter for the principal and school community to determine within the framework of the Education Reform Act.

The presence of chaplains in these schools makes a positive contribution to student welfare and pastoral care. What is in the mind of the New South Wales Teachers Federation that it wants to deprive these schools of this benefit? What have they got against chaplains? What have they got against these schools? It is totally ideologically driven, because the interjections have been totally from the left wing of the Labor Party, the looney left of the Labor Party. It is clearly both politically and ideologically driven, and I reject it.

WOMEN PRISONERS

The Hon. ELISABETH KIRKBY: Where will the Attorney General, and Minister for Justice locate the proposed transitional centre for women prisoners following the rejection by Leichhardt Council of the proposal to put the centre in the old homeopathic hospital in Glebe?

The PRESIDENT: Order! I cannot hear the member's question.

The Hon. ELISABETH KIRKBY: Will the Minister ensure that there are sufficient services that help women prisoners make the transition from gaol back to community life after they have served their term in custody?

The Hon. J. P. HANNAFORD: The honourable member has been a strong supporter of the programs that I have been pursuing, of trying to locate appropriate facilities for women and to completely reform the

prison system to improve arrangements for women. The honourable member would be aware that only a few weeks ago I approved the conversion of the Emu Plains Correctional Centre into a correctional centre for women. It will be the first prison farm for women prisoners in New South Wales. That centre will be constructed in such a way that, in appropriate circumstances, mothers with young children will also be housed there. Obviously there will be an appropriate judgment made as to whether children should be located in the specially designed facilities that will be unique to the Emu Plains complex.

I am aware of a Queensland program that provides a transitional centre for women. That program is aimed at enabling women to be discharged from prison towards the end of the sentence, but under supervision. It allows the women to be transferred to a transitional centre and there reunited with their families. As I said, this is all done under supervision. The program allows women, particularly single mothers with children who often do not have any other support networks available to them, to come back into the community via this transitional arrangement. The centre that was proposed for the

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homeopathic hospital site in Glebe aroused much community debate. I know there has been significant division within the Australian Labor Party over this proposal. One might well say that I have secured -

The Hon. Dr Meredith Burgmann: The Labor Party is supporting it.

The Hon. J. P. HANNAFORD: I am told the ALP members on the local council supported it. The local member was not as vociferous in her support of it. I understand there was a very interesting debate at the Harold Park Hotel - politics in the bar - over this issue, and I am told that members of the ALP were at each others throats over this matter. I appear to have achieved some interesting supporters in my efforts to secure a transitional centre for women. Perhaps I will make sure that some of my own colleagues do not know who some of my supporters are. However, I understand that last night the council refused to grant approval for the conversion of the homeopathic hospital for this purpose. I assure the honourable member that I will be looking for an alternative site. I note that last night the council indicated that Bidura might be an appropriate site. I am committed to making certain that there is a transitional centre, and I will consider the suitability of Bidura for such an establishment.

I note that on this occasion the leftwing of the Labor Party will support me - and that is a bit of a worry. Now I have to make sure that I have the numbers in council to get this through. I hope that the Labor Party gets behind the Government on this issue. We have support from the Australian Democrats for the proposal, and I note from the nods that I have support from the Call to Australia group also. All my colleagues support me on these reforms. I just hope the ALP can get its act together and support me on this very important reform for women prisoners in this State.

LOTTO DIVIDEND TELEPHONE LINE

The Hon. J. R. JOHNSON: My question is directed to the Minister representing the Minister responsible for lotto.

[Interruption]

The PRESIDENT: Order! The member will ask his question.

The Hon. J. R. JOHNSON: Is the Minister aware that from the inception of lotto a dedicated result and dividend telephone line - 11521 - has been available to patrons at the standard telephone rate? Why is this service to be discontinued from the 30th of this month, thus forcing patrons to use a 0055 number, which is usually more expensive? Can the Minister give an assurance that the new arrangements will be available at the standard telephone charge rate so as to not disadvantage social welfare recipients and others who do not wish to buy newspapers to obtain the results. If my assumption is correct, will the Minister intervene to ensure that the existing arrangements continue?

[Interruption]

The PRESIDENT: Order! The Minister does not need any assistance from members.

The Hon. E. P. PICKERING: If that represents the standard of question asked in this House -

The Hon. J. R. Johnson: You did not even know you represented the Minister, when I asked you a minute ago.

The Hon. E. P. PICKERING: That is not so. No wonder the Leader of the Opposition and the Deputy Leader of the Opposition are always absent from question time. As an old Methodist I would not have a clue whether those things have changed, but I am sure that in the scheme of things they are of mind-boggling importance. However, in response to the honourable member's question, I will refer the burden of it to my colleague in another place.

PROTECTION OF COASTAL LAND

The Hon. JENNIFER GARDINER: Can the Minister for Planning, and Minister for Housing advise the House what is being done to protect coastal land in the Coffs Harbour district on the mid north coast of New South Wales?

The Hon. R. J. WEBSTER: For some time the Government has recognised the need for additional open space and conservation areas on the north coast. The north coast draft urban planning strategy, released in August 1993, identified a lack of significant coastal public reserves between Coffs Harbour and South West Rocks. In response the Government has reached agreement to purchase approximately 570 hectares of coastal land at South Bonville near Coffs Harbour. The land is being purchased -

The PRESIDENT: Order! The Minister is obviously suffering from a weak voice and Hansard must hear his answer. I implore members, not only those who support him but those who do not, to be a little quieter so that Hansard can hear the answer.

The Hon. R. J. WEBSTER: I am so overwhelmed that members are excited about this announcement that I will proceed. The land is being purchased at a cost of \$1.3 million, using funds from the Coastal Lands Protection Fund. The South Bonville area, known as Bongil Bongil, is a very important piece of coastal land, widely recognised by environment groups for its innate and strategic environmental significance. The area purchased by the Government includes a number of coastal wetlands - seven in fact - identified by State environmental planning policy No. 14 as well as the Scrub Creek littoral rainforest protected by SEPP No. 26. It contains koala habitat as well as a range of birds, mammals and reptiles considered by the National Parks and Wildlife Service to be endangered or vulnerable.

Bonville Beach is about five kilometres long and is a breeding area for the endangered little tern. The adjacent Bonville Creek estuary is important as a
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roosting and feeding area for internationally protected migratory wading birds. While some of the area has been subject to sandmining, plantation forestry and a number of tourism development proposals, it still contains 15 different vegetation associations and at least five rare or uncommon plant species. The Bongil Bongil area is a valuable major addition to the public open space, recreation and conservation requirements of the north coast. It is particularly important because it is located close to Coffs Harbour, one of the region's largest and fastest growing urban centres.

The Hon. R. S. L. Jones: What about North Ocean Shores?

The Hon. R. J. WEBSTER: Good things come to those who wait. My announcement that the

Government had purchased this site was met with great enthusiasm - initially at least - by local environmentalists. Dr Alan Lloyd, who is president of the Coffs Harbour national park group, came out in full support, describing it as terrific news for the area. But then he changed his mind. A week later his enthusiasm had waned somewhat. In fact, he was attacking me for not buying land adjoining the reserve, land which was not rated of high environmental significance by independent assessors. Five days after the announcement, which was described as "terrific news", the local paper stated:

A new coastal reserve at Bonville has been branded a failure by conservationists who say it will not protect the environment or provide the community with a viable recreation area.

The Government's purchase of 570 hectares of land was, according to the extremely difficult to please Dr Lloyd, a let-down and was doomed to failure - 570 hectares of coastal reserve a failure? For once I have to say I find myself in at least partial agreement with the Leader of the Opposition, the former Minister for Planning and Environment, Bob Carr, who once described environmentalists as voracious wolves. They devour in one gulp whatever you give them and immediately demand more. Bob Carr recognised that because he suffered the same difficulties that this Government has suffered. No matter how much you give them, they want more, more, more. Naturally I would not be as offensive as the Leader of the Opposition in the other place by describing them as voracious wolves.

Turnabouts like this tend to make one frustrated and suspicious of the motivation of people who purport to be fighting for something and, when it is achieved, turn out to be not so keen on it after all. Why did Dr Lloyd commit such an about-face? Was he heaved by the Australian Labor Party, which wants to run its election campaign on the north coast based on the obvious lie that this Government does nothing for the environment? Or was he heaved by the Hon. R. S. L. Jones? Most people who looked forward to Bongil Bongil becoming a coastal reserve see the announcement for what it is - a genuine environmental achievement - and are naturally delighted.

They are delighted and also relieved, because they know how close they came, under the former Labor Government, to getting a multimillion dollar tourist development at Bonville, on the very land the Government has purchased for a coastal reserve. That is why environmentalists on the north coast will not believe Labor's environment campaign, because its record at Bonville alone should set the alarm bells ringing. In September 1987, when Bob Carr was Minister for Planning and Environment, Premier Unsworth announced with great fanfare the provision of a \$5 million loan to Bonville Beach Hardwoods Limited - and I quote from the Premier's press release - to "complete the purchase of land for Australia's most ambitious resource development at Coffs Harbour".

The Hon. Ann Symonds: Give your voice a rest; sit down.

The Hon. R. J. WEBSTER: I know honourable members opposite do not like it, but there is more. Barrie Unsworth's own words, the man who now runs GAY-FM said it would be, "Australia's most ambitious resort development" - on the very land this Government has just purchased as a coastal reserve. The former Premier's press release continued:

The proposed resort is a multi-level development featuring a five-star hotel, convention facilities, residential opportunities, two golf courses (one of international standard) tennis and health resorts, a wildlife park and commercial centre.

I would hope they would not be together, otherwise the wildlife would not be wild for long. Barrie Unsworth called this development Australia's most ambitious resort development and supported it to the tune of \$5 million - this from the green Labor Party. That is what the people of Coffs Harbour could expect if they were ever unlucky enough to have a Labor member of Parliament - and from the environmentally sensitive Labor Party - Australia's most ambitious resort development on the Bongil Bongil coastal reserve. Fortunately that development, like many others that Bob Carr, Mike Cleary and Barrie Unsworth had planned up and down the coast -

The Hon. Dr B. P. V. Pezzutti: And the Hon. I. M. Macdonald.

The Hon. R. J. WEBSTER: And the Hon. I. M. Macdonald - did not proceed, despite the

injection of Government funds. Today, instead of a five-star hotel and a wildlife park, we have a coastal reserve which will be preserved in perpetuity in its natural state. Who do we have to thank for that? The National Party member for Coffs Harbour, Andrew Fraser, and the National Party Minister for Planning.

APPOINTMENT OF PRESIDENT OF NEW SOUTH WALES ANTI-DISCRIMINATION BOARD

The Hon. ELAINE NILE: I address my question without notice to the Minister for Education, Training and Youth Affairs, and Minister for
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Tourism. Is it a fact that the controversial Mr Chris Puplick has been appointed President of the New South Wales Anti-Discrimination Board? Is it a fact that Mr Puplick said, on his appointment as president, that he will continue to campaign for the removal of the exemption for churches and Christian schools from the Anti-Discrimination Act? Will the Government, and the Australian Labor Party if it is elected at the next election, give an unqualified assurance that this important exemption will not be removed? Will the Minister direct Mr Puplick in his new position to carry out Government policy and not attempt to make Government policy in this controversial area?

The Hon. VIRGINIA CHADWICK: I say at the outset that I am aware of the appointment of former Senator Chris Puplick and I am delighted by the appointment. I have known Chris Puplick for well over 20 years and I am very pleased to see him appointed to that position. Whilst I have the highest regard for Chris Puplick and would regard him as a friend, we do not always agree. Friends do not always agree on everything. Though there are many areas where Chris and I would find ourselves in agreement, there are others where we do not, and his pronouncements in relation to the position of non-government schools is one such area. The Government has in fact held a particular view since 1987. Although it has been formal policy since 1987, it has been long the view of the Liberal Party and National Party in New South Wales. We have defended that position against all comers from 1988 to this day. Old habits die hard: I will continue to defend that position, regardless of the high personal regard that I might have for Mr Puplick. He is entitled to his view, but the Government will defend itself.

GOVERNMENT CLEANING SERVICE

The Hon. A. B. MANSON: I direct my question without notice to the Minister for Energy, and Minister for Local Government and Co-operatives, representing the Chief Secretary, and Minister for Administrative Services. Why is the Government so vigorously opposed to awarding redundancy pay to former Government Cleaning Service employees who were sacked in January this year, when the GCS was privatised? Is it a fact that the Government spent in excess of \$100,000 in legal costs fighting the case against redundancy payments in the Industrial Relations Commission? Is it the Government's intention to waste another \$100,000 appealing against the Commissioner's decision which was favourable to the sacked workers?

The Hon. VIRGINIA CHADWICK: The honourable member can be absolutely certain that with some speed I will refer his question to my colleague Anne Cohen. However, I say in passing that those employees of the Government Cleaning Service who chose to go on to employment with the contractors who won tenders to clean government schools and other facilities were guaranteed employment. Therefore, they were not sacked in the traditional sense of the word. They did have ongoing guaranteed employment, hence it was the Government's view that redundancy payments did not apply. Most people were very surprised that people cleaning schools, who were employed and picking up their pay each week, were entitled to redundancy. From the schools' perspective this has been astonishing, but I know that there are other matters that my colleague the Minister for Energy will wish to elaborate on.

TELEVISING OF COURT PROCEEDINGS

The Hon. J. M. SAMIOS: My question is directed to the Attorney General, Minister for Justice,

and Vice President of the Executive Council. Members might be aware that one of the recommendations of the Federal Access to Justice Advisory Committee was that the Federal Court of Australia should consider the establishment of an experimental program to allow the broadcasting of proceedings. Does the Attorney agree with this recommendation on a State level and what are to be the implications of this recommendation?

The Hon. J. P. HANNAFORD: The honourable member is correct: the televising of court proceedings was but one of a number of recommendations of the Sackville committee. Honourable members may be aware that the New South Wales Government has recently issued a comprehensive response to the Sackville report, describing in detail, point by point, exactly how New South Wales is building a better justice system. In that response the Government points out that the Judicial Commission is investigating the policy issues concerning televising court proceedings. Though I do not want to pre-empt the commission's final advice, I have strong reservations about televising court proceedings.

Broadly speaking, to allow court proceedings to be televised would open up two possibilities. The first would be the playing of edited portions of court proceedings during news broadcasts. The second would be the live broadcast of court proceedings in cases attracting public notoriety. Both of these phenomena have become the mainstay of American crime reporting. United States television news reports often feature edited highlights of court proceedings. My principal concern regarding this practice is that it allows grab phrases or sound bites to be taken out of context for the purpose of sensationalising the case. It is a practice that is not in the interests of the accused or, for that matter, of the prosecution, whose case may be prejudiced through irresponsible reporting.

Live all-day telecasting of proceedings is even more concerning. It may be of interest to the House to know that during the recent pre-trial hearings into the case concerning Mr O. J. Simpson, each American TV and cable network, including even the dedicated sports channel, heralded gavel to gavel coverage of proceedings. That phrase alone should explain some of my reservations regarding the

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sensational nature of the TV court coverage. I am told that during the court's tea and luncheon breaks each network's broadcast was supplemented by discussion amongst members of what the networks described as their expert legal panels. Members of the panels would give opinions on the strength of the prosecution's case to that particular stage, and on the defence counsel's cross-examination style and tactics. It is almost like going down to the sidelines at a football match for a report on the state of play. This is the type of blow by blow reporting now occurring in the United States. That form of coverage only adds to the public spectacle surrounding celebrities charged with murder - a capital offence in California. This type of reporting does not contribute in any meaningful way to the administration of justice.

Recently I received a lettercard from a person in New York who gave me some information about a new news release and the comment was, "At long last we've got something else, other than O. J., on the news". A further example of how televising court proceedings may prejudice the administration of justice comes in a comment made by a leading United States defence lawyer regarding TV in the courtroom. She reports that she advises her clients never to smile while in court - whether the jury is there or not. That advice is given because a smile will be picked up by the cameras. Once the network has an image of a smiling accused, it will freeze the frame and use it repeatedly during future reports, regardless of what voice-over is being transmitted with the image. This could lead to serious injustice for the accused.

The final point that I wish to stress is that televising court proceedings could contaminate cases in which identification is at issue. In the recent *Who Weekly* contempt case, I successfully took action against a magazine which published photographs of an accused in such a case. Given my commitment to preventing contamination of the justice process through inappropriate media reporting methods, I have real reservations about that recommendation in the Sackville report. However, I will listen to what the Judicial Commission may have to say to me about it.

The Hon. R. S. L. JONES: Is the Minister for Planning, and Minister for Housing, representing the Minister for the Environment, aware that Australia has the second highest number of threatened species in the world - 641 compared with 1,407 in the United States of America? Has the national strategy for the conservation of Australia's biological diversity been approved by every State and Territory government except New South Wales and Western Australia? Why has this Government failed to support the strategy? Does this mean that the Government has no real commitment to the protection of Australia's biodiversity?

The Hon. R. J. WEBSTER: I am genuinely hurt that the Hon. R. S. L. Jones should ask such a question after the answer I gave honourable members earlier. This Government is concerned about the environment and about endangered species. Indeed, this Government has done more to protect the environment than any government in the history of this State. In order to obtain a detailed answer for the Hon. R. S. L. Jones I will refer his question to my colleague.

MULAWA CORRECTIONAL CENTRE PRISONER FACILITIES

The Hon. ANN SYMONDS: My question without notice is directed to the Attorney General, Minister for Justice and Vice President of the Executive Council. In light of the deaths of women prisoners this year and the increasing levels of self-mutilation, which must be regarded in many cases as attempted suicide, can the Minister inform the House what extra staff will now be employed in health services at Mulawa? Prior to the construction of the crisis unit at Mulawa will the Government immediately set up a crisis intervention team, or program, to deal with the serious levels of mental illness amongst women prisoners?

The Hon. J. P. HANNAFORD: Some of the figures that have been used to reflect an increase in deaths and self-mutilation at the Mulawa facility are not accurate and have caused concern. I am aware of the problems at Mulawa, and in relation to them a number of things will be done. The Government has allocated nearly \$15.5 million for correctional health services throughout this State and, by the end of the financial year, it will allocate an additional \$785,000. In addition to the allocation for correctional health services it has been estimated by workers in various health areas and districts that \$1.8 million has been expended on prisoners. The Premier recently announced special funding of \$1.9 million over the next four years to improve mental health services for prisoners.

The Government's special policy document, "Caring for People with Mental Illness", outlines the following initiatives: \$700,000 in capital funds plus \$120,000 annually to build and run a separate 10-bed unit at Mulawa Correctional Centre for mentally ill women; \$150,000 a year for crisis support and psychiatric care for mentally ill women at Mulawa; and an additional \$48,000 to employ education officers. An amount of \$320,000 will be allocated each year to employ five additional clinical psychologists, one of whom will be stationed at Mulawa - there may even be more - and one at Long Bay, Goulburn, Bathurst and Parramatta. Additional funds have also been allocated for the Long Bay hospital psychiatric ward, a welfare officer at Long Bay, and the introduction of an Aboriginal health service program to interact with general psychiatric services. The vast majority of funds allocated for this program will go to Mulawa and the vast majority of additional services will be provided at Mulawa. When final allocations have been made - and I expect this to happen very soon - I will be able to make a further statement to the House.

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HIGHER SCHOOL CERTIFICATE SYLLABUS

The Hon. D. F. MOPPETT: Will the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier inform the House about work being undertaken by the New South Wales Board of Studies in regard to the higher school certificate? Is a four-unit English course being contemplated?

The Hon. VIRGINIA CHADWICK: Government members have a genuine interest, knowledge

of and commitment to education in New South Wales. I have been following the development and revision of English syllabuses in this State. I know that this matter has interested my colleague the Hon. Dr Marlene Goldsmith for many years. Many students, teachers and parents are aware that a four-unit mathematics course is available through the Board of Studies for the higher school certificate. However, they believe, rightly or wrongly, that as there is no similar four-unit English course available, a number of students who wish to move to high level English studies have been disadvantaged. This matter has generated intense debate and controversy over many years. The Board of Studies, as part of its regular review of syllabuses in New South Wales, has undertaken community consultation and has put out a questionnaire with a view to revising English syllabuses for the higher school certificate.

The time has come for the Board of Studies to decide whether there is merit in developing a four-unit English course for the HSC - a matter that was discussed by the board at its meeting yesterday. It is not opposed to exploring the option of a four-unit English course. We must not in any way disadvantage a student who has already embarked on preparatory work for year 11. A course such as the one that is proposed would need to be thoroughly researched and developed and be subject to consultation in the community. I hope we will soon see a move towards a four-unit English course in New South Wales. I think the board has successfully resolved the dilemma relating to the two-unit English course. I look forward to a satisfactory and amicable resolution of this long-running debate about a four-unit English course.

PACIFIC POWER EMPLOYEE CONDITIONS

The Hon. Dr MEREDITH BURGMANN: I ask the Minister for Energy, and Minister for Local Government and Co-operatives whether he is aware that more and more employees are being given the opportunity to develop their own shift rosters, as part of the devolvement of decision making power from management to employee teams. Can the Minister indicate whether he supports this change?

Is the Minister aware that Pacific Power refuses to discuss the implementation of 12-hour shifts, despite repeated requests from many of its employees? Is the Minister aware 12-hour shifts are worked by many employees in the power industry outside Pacific Power? Is the Minister aware that Pacific Power senior management has refused to engage an agreed shift work consultant to assess the most appropriate shift roster for operators at Bayswater Power Station, despite in principle agreement from the management at Bayswater? Is the Minister aware that Pacific Power has refused to allow a union funded shift consultant access to Bayswater Power Station in order to assess the most appropriate shift roster for operators there? Is the Minister prepared to direct Pacific Power to undertake genuine discussions with interested employees concerning the restructuring of shift rosters, including the implementation of 12-hour shifts?

The Hon. E. P. PICKERING: The honourable member may be surprised to learn that essentially I am unaware of any of the matters she raises, but I am fascinated by them. I assure her that I will ask Pacific Power the odd question arising from her inquiries. I felt the sense of *deja vu* listening to the honourable member. I remember sitting some years ago just about where the honourable member is sitting now when the late the Hon. Paul Landa was the Minister for Energy in this House. At that time the power that was required to light up Sydney's skyline had been turned off because there was not enough power to meet the State's requirements. The Minister for Energy at that time came into the House and said words to the effect of, "By the way, I have just put the price of electricity up 45 per cent. I am sure that will not adversely affect the economy or business in New South Wales".

I bring those matters to the attention of the honourable member to remind her that one walks into dangerous territory when one enters this House as a Labor member suggesting that in some way Pacific Power may not be running things a tad better than when the Opposition was in government. That same organisation is consistently reducing the price of electricity to the consumers of this State.

The Hon. Dr Meredith Burgmann: That is happening everywhere.

The Hon. E. P. PICKERING: It is not happening everywhere. One only has to travel to Victoria to see what a mess Labor has made so far as the Victorian power situation is concerned. In New South Wales not only has the price of power fallen for both commercial and domestic consumption, at the same time dividends paid by Pacific Power in the form of taxes and dividends to the community of this State have increased astronomically to the tune of about \$600 million a year. The honourable member should cast her mind back to the days when Labor placed a large excess on generating power in this State. It overbuilt power stations in New South Wales yet it could not generate enough power to turn on the lights in Sydney.

The Hon. Virginia Chadwick: Is that when people had to import generators powered by jet engines?

The Hon. E. P. PICKERING: Yes, and they are still there; I saw them recently. Members of the Opposition should tread a little warily before

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suggesting that Labor could manage Pacific Power a little more effectively than it is being managed today. I have been given a note, no doubt generated by Pacific Power, entitled "Corporate Wide Enterprise Agreements". It seems too technical to burden the House with at the moment.

The Hon. Dr MEREDITH BURGMANN: Why will the Minister not admit that he does not have a clue?

The Hon. E. P. PICKERING: I said at the beginning that I did not know, and that is the truth. I said, however, that I would diligently follow up the matter. If there is a tad of interest in what the honourable member has raised, I will come back to her.

CHILD PORNOGRAPHY

The Hon. Dr MARLENE GOLDSMITH: My question is directed to the Attorney General, Minister for Justice, and Vice President of the Executive Council. Recently I asked the Attorney a question in relation to his proposed legislation against the possession of child pornography. Has the Attorney any further information in relation to that legislation and in relation to the age of the young people used in such pornography?

The Hon. J. P. HANNAFORD: The honourable member's question concerns an issue in which I know she has an active interest. She has worked diligently in the community to try to turn around some of the attitudes that exist towards pornographic material. Last week I said I intended to bring in legislation which would prohibit the possession of child pornography. I also indicated that I intended to change the law to make it easier for the censor to refuse classifications of such material. I recall that I mentioned the censor had indicated to me that he was experiencing difficulty in that at present the law provides that he must be positively satisfied that the persons in the material are under the age of 16 years.

I indicated that I intended to change the law to require the censor to be positively satisfied that the persons involved were over the age of 16, and if the censor could not be so satisfied, the material would be refused classification and a conviction relating to the possession of such material would result. I am aware that a number of people in the community have expressed strong concern about the present age provision. I realise that it is sometimes difficult to know whether a young person is 15 years of age or 17 years of age. I am sure that all members of the community would regard it as totally repugnant that children or young people are used to produce pornographic material, whether in magazine or film form.

The Government acknowledges the support for the program I announced last week and there is a suggestion that it should be implemented immediately. I will introduce legislation within the next few weeks for that purpose. The Government proposes to embark upon a campaign to increase the age limit from 16 to 18 years, which is the age of maturity so far as the law is concerned. Though the age of 16 is recognised as the age of consent for females with regard to sexual activity and 18 years is the age of consent for males with regard to sexual

activity between consenting male adults, the Government is of the view that such young people should not be encouraged to participate in the production of such pornographic material.

The Government will introduce legislation designed to increase the age requirement from 16 to 18 years. Ideally laws with regard to censorship should be uniform from State to State. I hope that that measure will receive the support of every honourable member of this House. It is the Government's intention, however, that the bill not be proclaimed until agreement is reached between the States about uniform legislation. New South Wales is Australia's largest State, therefore, it is appropriate that it should send a clear message to other States in this regard. I will take that message, I hope with the support of all honourable members of this Parliament, to the Standing Committee of Attorneys-General when it discusses censorship issues to seek the support of my colleagues in the other States not only for the reforms I announced last week but also for this particular package.

In view of the hour, I suggest that if honourable members have further interesting questions, they put them on notice.

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The Hon. D. J. Gay, on behalf of the Chairman, tabled the report of the Committee on the Independent Commission Against Corruption entitled "Report in response to the motion passed by the Legislative Assembly on 15 September, and the Legislative Council on 20 September 1994", dated 21 September.

Ordered to be printed.

BUILDING SERVICES CORPORATION (AMENDMENT) BILL

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council), on behalf of the Hon. R. J. Webster [5.10]: I move:

That this bill be now read a second time.

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

Leave granted.

For over 22 years in this State we have had a system of regulation in the home building industry with the primary aim of protecting consumers of residential building services.

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The basic elements of the system have included licensing those who operate in the industry and providing a form of indemnity insurance for consumers when those licensed operators fail to deliver a product which is complete and free from defects. Sanctions are included in this system to penalise unlicensed operators and to discourage consumers from dealing with unlicensed operators. It may seem like a relatively easy task to make such a system work. After all, the requirements appear simple and there are many other examples of Government and industry regulatory systems which have similar features.

I acknowledge that the vast majority of builders and contractors do the right thing and thus never have been, and probably never will be, the subject of a complaint to the Building Services Corporation or its predecessor, the Builders Licensing Board. To this extent the system has worked. But, as honourable members will be only too aware, there are many consumers whose experience with the

home building industry has left them with the conclusion that their builder or contractor did not know or did not care what he was doing or had insufficient commitment to the task of completing the contract in a good and workmanlike manner. There are too many operators still licensed by the BSC who fail to build to an acceptable standard of workmanship or who fail to properly manage their businesses, with the result that consumers are left high and dry when their contractor goes broke. These matters are the targets of the Government's concerns.

Regulation of the home building industry came into existence with the establishment of the Builders Licensing Board in 1971. Before that, the industry had been almost completely unregulated. Much of the impetus for government regulation in fact came from the building industry. The Master Builders Association had been seeking regulation since 1908. It had argued that fewer building and contracting firms becoming insolvent would mean that subcontractors and suppliers would be more likely to be paid, and paid on time. They also believed that problems associated with undercapitalisation, inefficient management of companies and the proliferation of unqualified entrepreneurs could all be addressed through licensing. As a result of these overtures from industry and the unfortunate experience of quite a number of consumers, a parliamentary select committee of inquiry into the building industry was held in 1969. This inquiry had quite a deal to say about what it called the predators who worked in the industry and the raw deal which many consumers had received at the hands of the industry. It recommended setting standards for those working in the industry and licensing those who met the standards.

The Builders Licensing Board was created to be the vehicle for implementing this system. So a course was set which has persisted to this day. Consumer protection would be achieved through industry regulation. Regulation would weed out the incompetents and the predators. Standards of work would improve, fewer builders would go broke and, it must follow, the public would benefit. Some 15 years later, a second parliamentary inquiry was held, this time into the operations of the Builders Licensing Board. This inquiry observed that community expectations had undergone considerable change in the years since the Builders Licensing Board was established. The public were more aware of their rights as consumers, they were better educated on consumer issues and were demanding a greater level of responsiveness and effectiveness from government organisations.

The 1986 inquiry concluded that the Builders Licensing Board had not changed with the times. The inquiry had shown that the board "is not providing the services required by the public and has been slow to recognise changing community attitudes and needs". So the Builders Licensing Board was abolished in 1987 and, in its place, the Building Services Corporation was created. Further reforms were introduced in 1990 with the passage of the Building Services Corporation Act. This legislation was described as the second and final stage of the legislative reforms previously begun with the establishment of the corporation in 1987. The then Minister's second reading speech described the legislation as establishing a one-stop-shop licensing system for the building industry, enhancing insurance protection, particularly for purchasers of owner-built houses, and addressing the many home building problems that occupied centre stage during the 1988 building boom.

The Building Services Corporation came under criticism some two years later with the publication of the report of the Royal Commission into Productivity in the Building Industry. The royal commissioner, Roger Gyles, expressed concern in his 1992 report that, given its primary role as a consumer protection body, the corporation disproportionately represented the interests of the supply side of the industry and had not adequately addressed the needs of consumers. Concern was also voiced about the surplus funds generated by the corporation and the high level of funding for education activities, little of which was seen to provide for consumer education. The royal commission received various complaints about the operations of the BSC. This, coupled with evidence of maladministration of funding by the BSC to the Master Builders Association group apprenticeship schemes, led Commissioner Gyles to find that an external review of the Building Services Corporation was warranted.

The Government responded to this by appointing Dr Peter Dodd as a commissioner to head up an inquiry into the BSC. Dr Dodd was appointed to inquire specifically into the way in which the residential building industry in New South Wales was regulated and administered. The inquiry was given the task of investigating and providing recommendations to the Government on consumer protection in the home building and related services industries. Commissioner Dodd reported to the Government in February 1993 and the report was released as a public document shortly thereafter. One of the principal findings of the Dodd inquiry was that the one-stop-shop approach adopted by the BSC is fundamentally flawed. He concluded that the BSC has put itself in a position of conflict by taking on too many roles - licensing, dispute resolution, discipline, consumer protection, insurance provider and funder of education and training. To quote from Dodd:

The majority of consumers who wrote to me believe that the BSC is biased towards builders; equally, most builders who wrote to me believe that the BSC is biased towards consumers. The frustration of consumers and builders who are dissatisfied with the

outcome of a dispute is often redirected to the BSC. The system is becoming more and more unworkable.

Dodd recommended that the key functions of industry regulation and consumer advice, dispute resolution and insurance, be separated. In respect of licensing, Dodd concluded that its existence is not a guarantee of quality. Most complaints against builders are against licensed builders. The current gold licensing system was found to be misleading in that it suggests better than average quality work by contractors when this is not necessarily the case. Dodd also concluded that the present structure of the licensing system is also prone to industry capture by creating barriers to entry. Licensing was recommended for replacement by a registration scheme which would be supported by a compulsory indemnity insurance scheme. With its emphasis on less regulation by Government, the Dodd inquiry saw no reason for the Building Services Corporation to continue its monopoly of the insurance market for the residential building industry.

Dodd considered that insurance for residential building work should be reviewed and privatised. He considered that the lack of price competition and innovation are not in the best interests of consumers or the citizens of New South Wales, and the links with licensing and dispute resolution mean that the BSC is in a position to apply unfair leverage

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of builders and consumers, a position which would not be available to private insurers. The BSC has been a major funder of education and training in the residential building industry. Dodd confirmed the earlier view of Commissioner Gyles that the bulk of this money has been directed to the supply side of the industry with only a small proportion being devoted directly to consumer education and training. Dodd also found that funding for education and training provided by the BSC needed to be better managed and, if it continued, needed to be linked to overall State labour markets and training needs. Dodd supported the corporation's development of a plain English residential building contract. The contract was seen to hold the key to alleviating many of the disputes which currently occur.

On the issue of consumer protection and support, Dodd saw that the effort being made needed to be overhauled. He challenged the continuation of a strategy which focused primarily on achieving protection for consumers through industry regulation and education. I will touch briefly on a number of other important issues taken up by Dodd. He was critical of the large surplus funds accumulated by the BSC as was, to a much lesser extent, the 1986 inquiry of the Builders Licensing Board. Dodd took up the issue of the role of local government and called for a system of mandatory inspections at critical stages of residential building work. Dodd also believed that the board of the corporation should be restructured, with its membership reconstituted as an advisory council.

After receiving the report the then Minister set up a small task force to consider public reaction to it. The following organisations were invited to comment on the report: the Australian Consumers Association, the Trade Practices Commission, the Building Action Review Group, the Labor Council of New South Wales, Mr John Mant, the Master Builders Association of New South Wales, the Housing Industry Association, the Master Plumbers and Mechanical Contractors Association of New South Wales, the Electrical Contractors Association of New South Wales, the senior referee of the Building Disputes Tribunal, the Chairman of the Commercial Tribunal, the Local Government and Shires Associations, the Department of Local Government and Co-operatives and the Attorney General's Department. The task force included representatives of the Premier's Department, the Department of Industrial Relations, Employment, Training and Further Education, the Department of Housing, the Office of the Minister for Housing, a representative of the Minister for Consumer Affairs, the Cabinet Office and the Treasury.

The task force reported that, whilst there was widespread agreement about the problems described by Dr Dodd, there were quite divergent views about some of the solutions he proposed. The task force recommended to the Minister that further research and consultation be undertaken into the feasibility and implications of the Dodd report recommendations. This research and consultation has been under way since late last year and is to continue in two important respects - licensing and insurance, on which I will have something more to say shortly. In the meantime, a number of important changes have been put in place in response to the criticisms of Dodd and Gyles. For the information of honourable members I would like to touch on a few of these changes. The BSC has been separated from the Department of Housing, established as a "stand-alone" organisation, and has been transferred from the ministerial responsibility of the Minister for Housing to the Minister for Consumer Affairs. These actions were taken as the first steps in breaking away from the past, and to make it clear that the primary business of the BSC is protecting the consumer.

The plain English home building contract was launched on 15 December 1993. This document marks a turning point in the approach to consumer support and education from now on. It is also a first for achieving a major consumer initiative without the need for further regulation. The building industry, consumers and Government combined to get this initiative in place. It is a clear demonstration of what is possible through a co-operative approach to common problems. I think, as the past has shown, further regulation and government control are not necessarily the answer. A different approach must be found which engenders commitment by

the supply side to service and quality on the one hand, and which establishes a vastly better informed consumer on the other.

Although I am pleased with the initial response of consumers and builders towards the contract, I have asked for the BSC to furnish me with a comprehensive report on its first six months of operation. A great deal of work has been done to refocus the consumer education and advice roles of the BSC. This is an area which came in for particular criticism by Dodd and Gyles. With the co-operation of various consumer groups and individuals, the BSC has developed a consumer strategy - a five-point plan to guide the enhancement of this area over the next two to three years. The consumer strategy is being supported by a substantial increase in funding from the BSC for consumer advice and education.

A thorough review has been carried out of the corporation's funding of industry education and research. Over 80 per cent of the \$20 million spent on these activities during the past six years has been expended on some form of pre-vocational training. Whilst the Government maintains its strong commitment to training, this is properly the responsibility of my colleague the Minister for Industrial Relations and Employment. BSC funds have provided many advantages to industry and to those who participated in the training, but the strategy has failed to address the continuing education needs of the industry. In other words, very little has been spent in support of the corporation's objective of maintaining standards in the industry. The process of deciding the allocation of grant funds has also failed to be competitive, thus giving no guarantee that the best projects have received funding.

Following this review, a whole new education and research program has been put in place, addressing both industry and consumer education needs. Particular emphasis has been given to issues of quality and best practice as a way of lifting industry performance and delivering a better product to consumers. Public advertisements calling for expressions of interest in the program closed on 29 April and more than 60 applications were received. These are now being assessed. Further preliminary examination of the recommendations of the Dodd inquiry in respect of licensing and the privatisation of insurance have unearthed many complex issues to consider. In relation to BSC insurance, very few people in responding to the Dodd report raised strong objections to the private sector taking over this role, provided consumers and the industry were treated fairly by any new arrangements. A task force was set up to investigate the issues and the feasibility of such a scheme.

An interim report of the task force has developed a set of principles and an indicative scheme of insurance. Options have been discussed with a number of private insurers to assess the feasibility of proceeding to a further stage. I have now considered the task force interim report and have instructed that the study proceed to the next stage. I expect the task force will complete its work later this year and I will then be in a position to recommend what changes should be adopted in respect of home building insurance. I accept the findings of the Dodd inquiry that insurance should be separate from the dispute resolution functions of the BSC. It is now a question of how this can best be achieved and the timing of such a change. In the meantime, it will be necessary for the BSC to continue to manage the existing scheme. The way in which this is intended to be done during the transitional phase will, as far as possible, keep the business of running insurance separate from the other business of the BSC.

Very few people have agreed with Dodd's proposals for the abolition of licensing and its replacement with a scheme of registration, supported by compulsory insurance. Industry overwhelmingly supports retention of a licensing

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scheme, but agrees that the concept of a gold licence has been heavily debased by the poor performance of some licence holders over the four years since such a scheme was adopted. I understand that it was originally introduced as a measure to encourage persons working in the industry to obtain a licence. The way in which it has been promoted has definitely given the impression that it represents superior quality work. As Dodd pointed out, this is not the case. Consumer groups, whilst critical of the licensing system, are not anxious to see it abolished. It is better than nothing seems to be the view.

There are many misunderstandings about the place of licensing and what it is meant to achieve. The hybrid form of license issued by the BSC, combining both occupational licensing and business licensing, has added to the confusion in people's minds about its role. For 22 years New South Wales has had a scheme of consumer protection which has been driven by licensing. In many other administrations around the world protection of the home building consumer is achieved by other means and licensing registration is only a secondary feature of those schemes. It is not possible overnight to simply abandon licensing as we know it in this State. One of the prerequisites for fundamental changes in licensing appears to be the existence of a successful private sector insurance scheme. To further investigate the reform of licensing I will be establishing a licensing review task force. The task force will consult extensively with industry and consumer groups. Its immediate task will be, first, to identify ways of improving the current system in the short term and, second, to examine the options for more fundamental reform of licensing under a privately managed home building insurance scheme.

Many changes and improvements have been implemented in the BSC over the past six months. An all-out effort is being made to clear up arrears of work, particularly in the investigation and resolution of complaints. It is not unfair to say that many of the corporation's management systems and practices were in need of updating and considerable effort has been made over the past few months to bring the organisation into line with modern business practices. The proposed reforms seek to address the problems of the one-stop-shop approach identified by Dr Dodd. The transfer of BSC insurance to the private sector is a key element in unravelling the conflicts generated by the one-stop-shop approach. As I indicated earlier, work on proposals to privatise the insurance is proceeding and it is intended that these proposals be ready for consideration next year.

The bill introduced today covers the remaining significant areas of reform, namely, dispute resolution, disciplinary hearings, the corporation structure and the Building Dispute Tribunal referees. I will turn first to the provisions relating to dispute resolution. As honourable members may be aware, the system for resolving disputes in the residential building industry has proven to be unsatisfactory from the view of the consumer, the builder and the BSC. The objectives of the proposed changes are to facilitate early intervention by the BSC in disputes; to emphasise mediation as the optional first and preferred means of resolving disputes; and to transfer from the BSC to the Building Disputes Tribunal authority to issue rectification orders. The earlier an attempt is made to resolve a dispute between two parties, the better the prospects of its resolution.

The present system of dispute resolution does not facilitate effective early intervention by the BSC. By the time the BSC can act on complaints the relationship between the parties, more often than not, has reached virtual breaking point and the prospect of a negotiated outcome agreeable to both parties is very slim indeed. Under the present system, the consumer must have informed the builder in writing of a complaint and must give the builder 30 days to rectify the problem. Unless health and safety are at risk, the BSC cannot act on a complaint until the 30-day period has expired.

When the 30-day notification period was first introduced its objective was to encourage the consumer and the builder to resolve their dispute without resorting to formal intervention by the BSC. This objective has not been met. Regrettably, the 30-day notification period has been used as a stalling tactic by many builders, refusing to act on complaints by the consumers unless ordered to do so by the BSC. From the builders' point of view this may seem like good business practice: why fix something that may not require fixing? From the consumers' point of view, the 30-day period is a frustrating delay, particularly as they would have been living with the problem for a lot longer than the 30 days. Add to that the time required by the BSC to help resolve the complaint and honourable members will see that the dispute resolution system falls far short of consumer expectations to have their complaints resolved speedily.

The Building Services Corporation (Amendment) Bill therefore seeks to abolish the requirement for consumers to wait 30 days and so allow the BSC to act on formal complaints from consumers as soon as they are lodged with the BSC. Consumers will advise their builder or contractor in writing, setting out the key details of the complaint; at the same time they can lodge a notification of complaint against the builder with the BSC. The BSC will then proceed to assist the parties to resolve their dispute through mediation or other dispute resolution options that are available to the parties, depending on their choice and circumstances. Mediation, of course, will not be appropriate in some circumstances, for example, where the builder is insolvent or cannot be located. In these circumstances the consumer may proceed to lodge an insurance claim.

Honourable members will be aware of the increasing emphasis being given to alternative dispute resolution methods over the past few years. The BSC approach to dispute resolution from now on, which emphasises mediation rather than litigation, is in line with this general shift in emphasis. The new dispute resolution system will offer incentives to disputing parties to resolve their disputes through mediation. The mediation service will be provided at no charge to the parties and there will be no penalty for not completing mediation successfully. I am confident that many will avail themselves of the opportunity to resolve their disputes through early mediation and in doing so avoid the high costs associated with building litigation. The BSC will provide quality technical advice services to support owners and builders in the mediation process.

Under the present system the BSC has the authority to issue rectification orders to the builder or contractor who fails to act on a complaint of a consumer. The builder must comply with the rectification order or face disciplinary action by the BSC and cannot have the rectification order reviewed, as is the case in the Queensland system. Rectification orders are at times necessary to finalise a dispute, but their direct link with disciplinary action, Dodd correctly pointed out, places the BSC in the position of having conflicting roles. The bill proposes to eliminate this direct conflict between dispute resolution and disciplinary action by transferring to the Building Disputes Tribunal the authority to issue rectification orders. Where, following the investigation of a complaint by the consumer, the BSC considers that any residential building work or specialist work is defective or incomplete, it may apply to the BDT for an order requiring

a contractor to rectify or complete the work.

An application for the issue of a rectification order will be heard by a building disputes referee, in a similar manner to a building claim. Following consideration of the evidence, the BDT will be able to add to vary or omit any of the items of the work to be rectified or completed. However, the order need not specify the manner in which the work is to be done. A rectification order by the BDT may be conditional on a homeowner or a complainant complying with certain conditions, for example, allowing the builder reasonable access to perform the work. Rectification orders will not be subject to the \$25,000 monetary jurisdiction of the BDT and will not be enforceable under

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the Consumer Claims Tribunal Act. However, failure to comply with the order without reasonable cause will remain a ground upon which disciplinary action may be taken against the contractor.

In addition to or instead of making a rectification order, the BDT may make other orders under the Consumer Claims Tribunal Act, as if the complainant and the contractor were parties to a building claim. Such orders, whether monetary or work orders, will be subject to the \$25,000 jurisdictional limit and will be enforceable in the courts. Where a work order is not complied with, the complainant may return to the BDT to have the work order converted to a monetary order, which can then be enforced through the courts. The second area of reform addressed by the legislation is disciplinary hearings against licence holders. Disciplinary hearings under the existing system are conducted by members of the Building Services Corporation, assisted by associate members. Whilst it is appropriate for the BSC as the licensing body to initiate disciplinary action against those who fail to comply with the Building Services Corporation Act, it is not appropriate for the BSC to conduct the disciplinary hearings.

I believe that the members and associate members of the corporation have endeavoured to conduct disciplinary hearings with impartiality. However, as Dodd has so clearly pointed out, disciplinary hearings will always be criticised as being biased if conducted by the BSC. The bill will see disciplinary hearings transferred to the Commercial Tribunal so that they are conducted on neutral grounds. The BSC will still be responsible for initiating disciplinary action. Disciplinary action will not be contingent upon the contractor's refusal to comply with a rectification order. As was recommended by Dodd, the BSC will take into account the overall performance of the licence holder. As disciplinary action is primarily concerned with protecting the public, it should focus on the retention or non-retention of a licence, not on disciplining licence holders for one-off instances of failure.

Following the investigation of a complaint or information received concerning the improper conduct of a contractor or the contractor's fitness to hold a licence, the BSC may prepare and lodge a notice to show cause with the Commercial Tribunal. The notice to show cause will be served on the contractor and the hearing will be conducted before the Commercial Tribunal. The licence holder will be entitled to be legally represented and may call witnesses. The BSC will be a party to the proceedings and will present evidence in relation to the grounds contained in the notice to show cause. The decision of the Commercial Tribunal will be final and appeals may be lodged with the Supreme Court, but only on a point of law. I hope that the residential building industry will welcome these proposals, as disciplinary action will be focused on the important question of fitness to hold a licence and disciplinary hearings will be conducted before a neutral third party.

The third area of reform addressed by the bill is the structure of the Building Services Corporation. The current board structure represents various sectional interests and the relationship between the board and the general manager is a confused one. The bill provides for the establishment of a home building advisory council which will serve as a peak body to advise me on a range of issues in the residential building industry. Membership of the council will be drawn from industry groups, consumer groups and individuals in the community who have expertise or interest in consumer issues or the residential building industry. The council will operate independently of the BSC and will have its own administrative structure to support its operations.

This independence and the broad representation on the council will ensure that it has the capability to provide me with high quality, independent advice and keep me well informed of the views of those in the residential building industry. The current board membership will be dismantled and replaced by a home building advisory council when their current terms of office expire on 30 June. The transfer of disciplinary hearings to the Commercial Tribunal also means that the BSC associates structure will no longer be required. The valuable role played by associates on special qualifications committees will continue, following a review of the committee structure.

The bill also provides for the Chief Executive Officer of the Building Services Corporation to constitute the corporation and be accountable to me as the Minister for Consumer Affairs. The general manager, as CEO, will be responsible for managing the business of the corporation, which is in line with Dodd's recommendation to overcome the current confused lines of responsibility and roles of

the corporation and the general manager. The arrangements set out in the bill will result in a more efficient and effective organisation with clear lines of responsibility between the Building Services Corporation, the Home Building Advisory Council and the Minister for Consumer Affairs.

Let me now turn to the issue of longstanding disputed insurance claims. Consumers with claims under the pre-March 1990 insurance scheme have a right of appeal against decisions made by the BSC in respect of their claims, but this appeal must proceed by way of arbitration. Honourable members will be aware that arbitration as a means of resolving home building disputes has been severely criticised on many fronts. Dodd was critical of arbitration, as was the Trade Practices Commission in its report "Home Building - Consumer Problems and Solutions" released on 20 December 1993. In Queensland, arbitration in the home building industry has been abolished. The bill proposes to give consumers with longstanding disputed insurance claims the right to take the matter on appeal to the Commercial Tribunal. This right is presently enjoyed by consumers who are covered by the current BSC insurance scheme. The bill is consistent with the recommendations of Dr Dodd in this regard.

Appeals to the Commercial Tribunal will be in place of arbitration. To ensure that all claimants are treated equally the bill will allow those claimants who have commenced arbitration to discontinue arbitration without penalty. Claimants will not be required to pay the costs of the BSC but will, however, be responsible for their own costs up to that time. Claimants with longstanding disputed insurance claims have undoubtedly incurred costs or losses as a result of litigation or trying to get the defect rectified. We have an obligation to assist these claimants so that they can indeed take their cases to the Commercial Tribunal. The bill will allow the Building Services Corporation to pay solicitor-client costs where the claimant's appeal is upheld. The Building Services Corporation will not, however, be entitled to seek costs from claimants should their appeal be dismissed. Some consumers have been disadvantaged by delays within the BSC to settle their disputed insurance claims. The bill will allow the Commercial Tribunal to direct the BSC to pay interest on awards where it finds that delay in settlement is attributable to the corporation.

All of these measures will greatly assist aggrieved consumers and will bring finality to these disputes which have remained unresolved for so much longer than is desirable. The availability of the new course of action open to disputants will be widely advertised and it is proposed to provide a period of 12 months within which time such persons may seek reassessment of their claims, and a right of appeal will then lie to the Commercial Tribunal against the decision of the corporation. The authority to issue rectification orders will be transferred to the Building Disputes Tribunal. This brings me to the proposed amendments to the Consumer Claims Tribunals Act.

The Department of Consumer Affairs has reported to me its findings on reviewing the Building Disputes Tribunal. Whilst the tribunal is generally operating satisfactorily, the process of selecting and recruiting referees and the qualifications of referees have led to criticism of the tribunal as being biased in favour of the building industry. It is essential that consumers and builders alike have confidence in the new dispute resolution procedures, and with this in

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mind the amendments to the Consumer Claims Tribunals Act are sought. The intention of the amendments is, first, to leave the question of qualifications of referees completely open and, second, to eliminate the statutory requirements of the Minister for Consumer Affairs to consult with any person or organisation prior to recommending appointments to the Governor.

These amendments will bring selection and appointment procedures in line with those used for Consumer Claims Tribunal referees. The bill therefore seeks to remove the requirement for BDT referees to have extensive experience in the building industry. This requirement has been interpreted narrowly and has effectively prevented the appointment of referees who have experience in a variety of related fields. Appointments to the BDT should be drawn from a more diverse field than is the case at present. I assure honourable members that in selecting referees for appointment to the BDT I will have regard to their level of experience, knowledge and understanding of the residential building industry, but I will not be bound to appoint only people who have those qualifications. I also wish to avoid making appointments which could lead the tribunal away from its largely non-legalistic approach to the conduct of hearings.

That concludes my comments on the provisions of the bill. I take this opportunity to make a few final remarks about consumer protection in the home building industry. Many different approaches have been taken throughout the world and indeed throughout Australia to the issue of how to protect consumers of residential building services. Many of these systems do not rely on government intervention; others rely partly on the government in providing the legislative framework or a part of the service and others, such as New South Wales, are almost wholly dependent on government intervention. If we were commencing afresh in New South Wales, it is unlikely we would choose today the approach that was decided in 1971. Having had such a system for more than 20 years it is difficult,

as honourable members will realise, to totally recast what we now have in favour of a new completely untried system.

The approach being taken by the Government to the reform of consumer protection in the New South Wales home building industry recognises both the need to address the very critical issues immediately, particularly dispute resolution and consumer education, and the need to work through carefully a more fundamental change, particularly reforms to licensing and the privatisation of insurance. This approach will also ensure the greatest level of consultation with all the interested parties. I commend the bill to the House.

The Hon. J. W. SHAW [5.10]: The Opposition supports the Building Services Corporation (Amendment) Bill. I propose to speak only briefly to it. One of the reasons the Opposition is able to support the bill in this House is that an Opposition amendment was passed by the Legislative Assembly and has been incorporated into the bill. The bill deals with consumer complaints in the building industry - a vexed issue in a difficult industry - where disputes often arise between builders and their customers. The bill flows from the Dodd report of February 1992. It makes a number of procedural and other adjustments to the processes that deal with consumer complaints. First, it deals with the issue of rectification orders that will be transferred from the Building Services Corporation to the Building Disputes Tribunal. Second, and more important, disciplinary hearings against licensed builders will be transferred from the Building Services Corporation to the Building Disputes Tribunal, which is a more authoritative and neutral forum in which to deal with these matters.

It is interesting to note that the Commercial Tribunal is acquiring more and more jurisdiction in a variety of matters. In other words, it is a body which is being enhanced progressively by a number of legislative changes. Perhaps the most significant general matter in the bill is the construction of a new council, which is to be called the Home Building Advisory Council. That council will advise the Minister on consumer matters in the cottage area of the building industry, or the home building industry. In that regard the Opposition was critical of the way in which the advisory council was constructed. The Opposition took the view that it insufficiently represented the interests of consumers. In the Legislative Assembly an amendment to address that matter was moved and accepted by the Government. The amendment made a number of changes to the way the Home Building Advisory Council was set up. In particular, it was sought to expand the size of the council membership from 10 to 11. The original bill provided that the members of the advisory council comprise four members appointed by the Minister after advertisement and having relevant expertise in the building industry. The Opposition suggested that the number be reduced to two persons, as that would have the effect of increasing the number of consumer representatives on the advisory council from four members to six, obviously providing a substantial and, indeed, majority consumer input into the activities of that important council.

Also incorporated in the Opposition amendments was the notion, which I particularly support, that local government should be represented on that council and that the Minister appoint that representative after consultation with the Local Government Association of New South Wales. The involvement of local government in home building and associated planning and development matters is obvious. It seemed obvious to the Opposition to allow representation of local government on the council. Those amendments have been incorporated in the bill before this House. It is fair to say that the amendments make a tangible improvement to the bill. In those circumstances, and having regard to the thrust of the bill generally, the Opposition supports it.

The Hon. J. H. JOBLING [5.15]: It is pleasing that the Building Services Corporation (Amendment) Bill has the support of the Opposition. It will go a long way towards solving many of the problems that have arisen over a long period in the home building industry. I have had a considerable involvement with the industry, and I have received numerous complaints from people who have had problems that have not been able to be rectified. Some of the problems go back to before 1980. Indeed, many of the difficult problems arose in the period up to 1988. It is quite clear that over the past 22 years in this State the system of regulation in the home building industry was primarily aimed, extensively, at protecting consumers of residential building services. The basic elements of the system included the licensing of those who operated in the industry and providing a form of indemnity insurance for consumers when the licensed operators failed to deliver a product that was complete and defect free.

Provisions in the system to penalise unlicensed operators and to discourage consumers from dealing with unlicensed operators are highly desirable. It certainly seems like an easy task but it is extremely difficult to take out of an industry the unlicensed operators, the fly-by-night operators, and those who would prey on a natural disaster, such as the Newcastle earthquake - a classical example of opportunism of the worst order. I put on record that the vast majority of builders and contractors do, and always have done, the right thing. Thus, they have never been, and I am certain will never be, the subject of complaints to the Building Services Corporation or its predecessor, the Builders Licensing Board.

Basically the system has worked well. However, I am sure that all honourable members know of someone who has had problems. Their experiences with the home building industry have led them to the unfortunate conclusion that the person they employed as their builder or contractor had no idea what he was doing, did not care what he was doing, or had totally insufficient skills or commitment to complete the contract in a first-class manner. Too many operators may still be licensed by the Building Services Corporation who do not build to an acceptable standard of workmanship or who are unable to manage their businesses. As a result consumers are in the unfortunate position of having been left with an incomplete home and, in some cases, the inability to recover their money because the contractor has gone broke. To that end I put forward for consideration by the Minister the proposition of establishing a register to identify builders who have had a number of disciplinary actions or rectification orders taken against them. This will help consumers to judge the skills and commitment of builders to carry out the work. I accept that is a difficult task, but this issue should be addressed. In a recent media release BARG, the Building Action Review Group, said:

BARG applauds the New South Wales Government affirming its commitment to consumer protection. The focus on consumer awareness and guarantee of service is long overdue. Consumers have been suffering, both financially and physically, for decades because of the inequities in the residential building industry and the arbitration in residential building disputes where the representatives of the building industry are judge, jury and executioner.

That unfortunate situation is clearly dealt with in this bill. Many inquiries have confirmed the existence of problems in the building industry for both the builders and the consumers. An inquiry in 1986 concluded that the Builders Licensing Board had not changed with the times. It showed that the board was not providing a service as required by the public and had been slow to recognise the changing community attitudes and needs. As a result, in 1987 the Builders Licensing Board was abolished and in its place the Building Services Corporation was created.

Further reforms were introduced in 1990 with the passage of the Building Services Corporation Act, which was described as the second stage of reform of the establishment. Two years later the Building Services Corporation came under criticism. Commissioner Gyles expressed concern in the 1992 report of the Royal Commission into Productivity in the Building Industry that, given its primary role as a consumer protection body, the corporation disproportionately represented the interests of the supply side of the industry - in other words the builders - and had not adequately addressed the needs of consumers.

Concern was also voiced about surplus funds generated by the corporation and about the high level of funding for educational activity. This, coupled with evidence of what was called maladministration of funding by the BSC to the Master Builders Association group apprenticeship schemes, led Commissioner Gyles to find that an external review was warranted. This led to the Dodd inquiry, which was to specifically inquire into the way in which the residential building industry in New South Wales was regulated and administered. Commissioner Dodd reported in February 1993 and released the document publicly. One of the major findings of that report was that the one stop shop approach adopted by the BSC was fundamentally flawed. It is interesting to reflect on this extract from Commissioner Dodd's report:

The majority of consumers who wrote to me believe that the BSC is biased towards builders; equally, most builders who wrote to me believe that the BSC is biased towards consumers.

That leaves them damned if they do and damned if they don't. The report continued:

The frustration of consumers and builders who are dissatisfied with the outcome of a dispute is often redirected to the BSC. The

system is becoming more and more unworkable.

That is not a new problem, but the belief is held strongly by those who have written to me. Between 1980 and 1988 little was done to rectify the problem. In 1980 the insurance maximum was \$10,000; that was lifted to \$17,500 by this Government, and last year was lifted to \$100,000, nearer to a realistic figure. I doubt whether that figure is enough. I suspect that it should be in the range of \$200,000 to \$250,000 to cover the few cases in which \$100,000 is insufficient.

The greatest number of disputes and real problems are found in the owner builder area. It is imperative that the Building Services Corporation and councils improve their procedures to ensure that owner builders clearly understand their responsibilities, their limitations when building works are faulty, what insurance cover means and what it covers in dollar value, and how they should go about reporting unsatisfactory work. It has been alleged that the advisory booklet, which should at all times be given to owner builders, has not been given out. It is imperative, to protect many owner builders who have little or no knowledge of building, of the codes and what they are entitled to claim, that these matters are covered in the booklet. If that is done, a number of owner builders may be protected against themselves.

The question of costs has concerned most who have written to me. Until now most claimants with disputed insurance claims proceeding by way of

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arbitration incurred very large legal bills. Indeed, many of them greatly regret taking that course of action and some find themselves in deep financial difficulties. To resolve the problem of arbitration is of paramount urgency. Mediation or alternative dispute resolution must be used to avoid the judicial system. Appeals to the Commercial Tribunal will be in place of arbitration. To ensure that claimants are treated equally, the bill will allow those claimants who have commenced arbitration to discontinue arbitration without penalty. Claimants will not be required to pay the costs of the Building Services Corporation but should note they will be responsible for costs they may have incurred up to that time.

Claimants with longstanding disputed insurance claims undoubtedly have incurred considerable costs or losses as a result of litigation or their attempts to have defects rectified. These claimants need our assistance to resolve those problems and to take their cases to the Commercial Tribunal. The bill will allow the Building Services Corporation to pay solicitor-client costs where a claimant's appeal is upheld. The BSC will not be entitled to seek costs from claimants should their appeals be dismissed. Some claimants have had delay after delay, for whatever reason, whether it is their fault or that of the BSC or whoever is responsible, in attempting to settle their disputed insurance claims. For the first time, the bill will allow the Commercial Tribunal to direct the BSC to pay interest on awards where it finds that delay in settlement is attributable to the corporation.

I put on record concerns expressed to me that many consumers still in dispute with the BSC are extraordinarily nervous after the experiences they have had so far of arbitration and the law of going to the Commercial Claims Tribunal. In the event that they should lose or their claim is dismissed, they are afraid that their legal costs will again be large. An option I shall suggest in a moment of a truly independent mediation system may overcome their fears in that regard. I ask the Minister to reconfirm an answer given to me when I asked 19 questions on 16 November 1993 concerning reserves. The Minister said that more than \$50 million is now set aside in reserves to cover all existing insurance contracts. I asked whether there was adequate provision, and whether the Minister would give a guarantee that the \$50 million to \$70 million transferred to the Housing Reserve Fund from the Building Services Corporation would leave sufficient funds available to meet all unresolved disputed known claims as well as anticipated claims.

The answer given by the Minister at the time was yes. Many people would be more relaxed and satisfied if the Minister could reconfirm that there would be sufficient funds to meet claims if the Consumer Claims Tribunal were to find in favour of all claims in dispute and allow for the awarding of interest for delays. I congratulate the General Manager of the Building Services Corporation, Mr Graham Mostyn, who has been most forthright with me and most helpful. Over a protracted period we have discussed a number of unresolved complaints. To his credit, he clearly indicated to me and put on public record that he agreed that a number of

former services had been substandard and that a number of complaints had not been handled as well as he would have liked.

The major complaints were with the gold licences; the attitude of inspectors who appeared to favour builders; the cost of attempts to recover moneys by legal means, usually unsuccessful, and the high costs awarded against consumers - the only option then being the Supreme Court - long delays by the Building Services Corporation in investigating claims, more specifically when it was only \$10,000 to \$17,500; the failure to recover compensation costs from builders and building companies; and, indeed, the failure to adequately discipline builders and building companies found guilty of poor or faulty workmanship.

In answer to another of my questions, Mr Mostyn and the former Minister dealt with the question of contracts. They said at the time they would introduce a new plain English contract. I must say that this has been done. This long overdue reform redressed an unfair imbalance against home purchasers and home owners and confirmed the undertaking given to me. I believe that the new plain English contract launched on 15 December last year will address most of the former contract problems that arose, especially in contractual disputes between builders and owners. It makes clear the right of each party. However, owners should still satisfy themselves about their legal obligations before they proceed to sign a document.

The Building Services Corporation has also proceeded to produce a new brochure called "A Fair Deal". The fair deal sets out the corporation's plan for advising and educating consumers over the next three years. It is a simple, straightforward document that clearly sets out consumer awareness, consumer advice, education, the rights and obligations of consumers, the service that will be delivered and the help available from the Building Services Corporation. Again it is a major step forward. I should like to touch briefly on gold licences, on which I have received a great deal of correspondence. I refer briefly to a letter received by me on 20 September from a Doris Kargodorian of Artarmon. She said:

I am referring to my previous correspondence with you regarding the BSC and would like to express my concerns with the proposed BSC (Amendment) Bill 1994.

My main concerns are the BDT and the fact that the new bill does not address the present problems with Gold Licences and the insurance issue. I feel that the bill in its present form will do nothing for me and will certainly not encourage the BSC to change its tactics when dealing with insurance claims.

This backed up Commissioner Dodd's recommendation in regard to the gold licence that the key functions of industry regulation and consumer advice, dispute resolution and insurance, be separated. In respect of licensing, Dodd concluded that its existence is not a guarantee of quality. That is an important point to note. Most complaints against

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builders are against licensed builders. The current gold licensing system was found to be misleading in that it suggests better than average quality work by contractors when this is not necessarily the case. Dodd concluded that the present structure of the licensing system is also prone to industry capture by the creation of barriers to entry.

We need a licensing scheme to replace the existing gold licensing scheme, which does not work and in many cases has totally misled the consumer. I commend the Minister for establishing a licensing review task force, which will consult with industry and consumer groups and identify ways to improve the current system and options for the reform of the licensing system. I do not propose to deal with the many disputed cases in my files. They range from the Donovans, Mrs Onorati, the Wells, Mrs Vucic, Mr Piskulich, Mrs Morris and the families affected by Venture, to Mr Pancas and Mrs Harding. Many of these people have every right to feel distressed and concerned. They are disappointed consumers. Many are very bitter consumers and many who have been involved in what I would describe as hopeless litigation are left at the end of the day with huge legal bills. I suspect that in the past they have not been well handled by some Building Services Corporation inspectors and that they may have been almost misled.

I believe that the bill offers a means of resolving future disputes and keeping them out of the

courts. The suggestions made by the Hon. J. W. Shaw about the advisory council are desirable improvements to the bill. They would improve consumer representation. Through the involvement of local government I believe the changes to the bill will overcome the longstanding custom of local government complaining about non-involvement in the process. Local government has suggested that it has been excluded. I should like to put on record some comments about dispute resolution. The present system of dispute resolution does not facilitate effective early intervention by the Building Services Corporation. In the past, by the time the Building Services Corporation was advised and was able to act on complaints, the relationship between the parties had reached a totally adversarial situation where neither party was prepared to give an inch and neither was prepared to listen to the other person's point of view. There was virtually no possibility of reaching a settlement. A negotiated outcome agreeable to both parties in most cases was slim.

Under the present system the consumer must have informed the builder in writing of a complaint and must then give the builder 30 days to rectify the problem. Unless health and safety were at risk the Building Services Corporation could not act on the complaint until the 30-day period had expired. The objectives of the bill and the proposed changes are to facilitate early intervention by the Building Services Corporation in disputes, to emphasise mediation by the Building Services Corporation as the optional first and preferred means of resolving disputes and to transfer from the Building Services Corporation to the new Building Disputes Tribunal authority to issue rectification orders. However, problems may still arise under the new system. Even allowing for hearings and the Home Building Advisory Council, if the builder is insolvent or cannot be found, it is clear that mediation is not possible. In that event the consumer needs to be made aware of the immediate need to lodge an insurance claim.

Alternative dispute resolution must always be the preferred option. An insurance scheme that can sympathetically and rapidly handle the situation in which a home owner with insurance finds himself if the builder becomes insolvent or disappears is necessary. The Building Services Corporation has taken a totally legalistic view on this problem until now and has hidden behind the requirements of the sum of money with which it can deal. The Building Services Corporation must have greater flexibility to resolve these problems. There is a need for further review and much remains to be done. I hope the Minister will agree that on-site inspections should be made mandatory so that the referee can verify and view the defects. At present they are optional. It should be part of the mediation process. Transcripts of Consumer Claims Tribunal hearings or mediation should be made available to members of the public for a prescribed fee, as they are for court hearings. If the Consumer Claims Tribunal is not satisfactory and does not produce the results that we hope it will, I ask the Minister to give an undertaking that at the end of 12 months he will consider introducing the option of handling unresolved disputes by independent mediation, which at the end of the day should be a binding procedure.

If the Consumer Claims Tribunal is not satisfactory and does not effectively do what the Government hopes it will, I would put to the Minister a proposition and ask him to consider giving an undertaking at the end of 12 months to consider the introduction of the option of mediation for unresolved disputes and handle them by independent mediation, which at the end of the day should be of a binding nature. It would be much cheaper than the existing legal solution and much cheaper if the Consumer Claims Tribunal fails. In the past there have been many problems. Many people have got into financial trouble and been left with unsatisfactory buildings. The Government, the Minister and, indeed, the Building Services Corporation have taken monumental steps forward to overcome these problems and to ensure a fair deal for the consumer.

The Hon. R. S. L. JONES [5.40]: The Australian Democrats also support the legislation and support some of the comments of the Hon. J. H. Jobling. I hope the Minister will take those comments into consideration in his reply. The bill has been debated at some length in the lower House and there is not much point in my going through the same debate in the upper House. However, I want to spend a few moments putting on record the concerns of Building Action Review Group Incorporated - BARG. The group believes that the bill will not benefit consumers and that the role of the Building Disputes Tribunal retains all the negative characteristics of

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arbitration. I should be interested to hear some responses to the matters the group raises. The Building Action Review Group applauds the Government affirming its commitment to consumer protection. In a media release the group stated:

The focus on consumer awareness and guarantee of services is long overdue. Consumers have been suffering both financially and physically for decades because of the iniquities of the residential building industry and the arbitration in residential building disputes where the representatives of the building industry are judge, jury and executioner.

The group lodged a submission with the Minister for Consumer Affairs, the Hon. Wendy Machin. The media release continued:

1. The BSC offers prompt optional mediation.
BARG believes that appropriate technical investigation and reports should form the basis of mediation.
WHO are the "mediators"?
2. If mediation does not solve the problem formal investigation by BSC follows and BSC "may" apply to Building Disputes Tribunal (BDT) for a Rectification order.
BARG believes it is of utmost importance that the "investigators" are highly skilled and impartial, because the BSC only "may" apply to the BDT for Rectification Order.
WHO are the "investigators"?
3. Application to the BDT for a Rectification Order.
BARG believes the BSC still has the discretion to not apply.
Where do Consumers go from there?
4. BDT hears the Application for R/O. The BDT Referee can add to, omit from, or vary items from the R/O WHY! . . .
5. BDT issues R/O. If builder does not comply with R/O consumer lodges an insurance claim.
BARG asks will the R/O become the basis for a claim against BSC Insurance?
6. Insurance claims can be made by the consumer at any stage of the dispute resolution process e.g. if builder cannot be traced or becomes bankrupt.
BARG asks how will BSC assess consumers in establishing such facts about the builder?
7. The new legislation will remove the requirement that BDT referees will need to have "extensive experience in the building industry". This may result in fewer referees biased towards builders, or in the Minister's words, remove the "perception of pro builder bias". However the new improved BDT will retain the existing referees and has many of the negative characteristics of arbitration. i.e.:
 - a. Absolute power to: OMIT, REJECT, VARY the Rectification Order.
 - b. NO APPEAL
 - c. NO rules of evidence
 - d. Tribunal/Referees decides as it can see fit to do
 - e. NO Transcript even if parties are prepared to pay
 - f. Tribunal/Referee immune from judicial review Sec.12 C.C.T.
 - g. NO choice of referee.
 - h. No on site inspection.
 - i. If consumer loses NO INSURANCE
 - j. Call overs for Tribunals should be compulsory for all participants.

Further the Bill proposes with regard to existing disputes to bring to end long standing complaints against the BSC by allowing complainants to have right of appeal to the Commercial Tribunal. Although the Minister said on 15/3/1994 matters to be examined would include "issues of compensation where, in the past, some constituents have been delayed and messed around by the BSC and it can be proven to be the fault of the BSC" and although the Minister told the Herald on 22/3/1994 that " . . . the Law would have to be changed for compensation to be paid to affected home owners . . . " this promise by the Minister Hon. Wendy Machin is not included in the legislative changes!

CONCLUSION: Once again consumers are faced with a BDT which is virtually the same as arbitration. BARG is aware that there

are currently BDT referees whose conduct has been biased and incompetent.

...

Why should we condone a new system which sees consumers jumping from the frying-pan into the fire!

I am sure the Minister will review the position over the next few months. Further down the track there may be a need for further rectification legislation. We shall see.

Reverend the Hon. F. J. NILE [5.45]: The Call to Australia group supports the Building Services Corporation (Amendment) Bill in principle as it is designed to bring about an improvement. However, after reviewing the bill and in view of some of the information we have received in the past few days, it seems to fall far short of consumers' expectations and needs. Call to Australia hopes the Government will consider amending the Building Services Corporation Act at a later stage. The purposes of the bill are to improve the dispute resolution system by eliminating the 30-day notification period for formal complaints - which is a step in the right direction; to transfer to a Building Disputes Tribunal the responsibility of the Building Services Corporation for making rectification orders; and to transfer disciplinary proceedings against licence holders from the Building Services Corporation to the Commercial Tribunal so that the proceedings are contested in a neutral environment.

The Building Services Corporation has fallen down on its job, but the consumers who have contacted Call to Australia are nervous or apprehensive about the role of the Commercial Tribunal. Consumers may have to run test cases against builders before the tribunal to see whether full and adequate justice is received. I would withhold judgment until the tribunal had dealt with some cases. The bill will establish what I hope will be a more efficient and effective organisational structure, eliminate sectional interests and overcome the confusion in lines of authority between the Minister, the corporation and the general manager. It will bring to finality longstanding disputed insurance claims by providing complainants with a right to appeal to the Commercial Tribunal and financial assistance to eligible complainants to take disputes to the tribunal. It will also improve procedures for the selection and appointment of Building Disputes Tribunal referees so that perceptions of bias are eliminated.

Over the years the Call to Australia group has received many heart-rending letters, sometimes containing detailed histories that indicate how the consumers - who perhaps should more correctly be called victims - have suffered at the hands of the

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Building Services Corporation. Recently we received another heart-rending handwritten note from Yvonne Morris, who has been affected. She wrote to me from Port Macquarie as follows:

Recently I wrote to you, asking for your support to have a special platform of mediation, put in place for the "Victims!" of the corrupt Qango of the Building Services Corporation. These people have suffered tremendous injustices, at the hands of the BSC. It is man's inhumanity to man to allow this to go on! The only crime these people have committed, was to take a mortgage to build a small home!

Ms Morris claims that Graham Mostyn, the Manager of the BSC, has admitted liability and that the Minister for Consumer Affairs has admitted liability, but still they have refused to address the truth. She believes that this bill does not go far enough and she says, "Please may we have your support". I could quote other letters but I shall mention particularly the one from BARG - the Building Action Review Group - referred to by other speakers, dated 20 September 1994, which I have only just received. BARG is a division of the Property Owners Association New South Wales, which is a responsible body. It has prepared a submission on the legislation which points up a number of weaknesses in the legislation which were acknowledged by a number of members on both the Government and the Opposition sides in the other place to still exist. They said they will exist even when this bill is passed. This bill is really just one step in what I trust will be a positive direction, but it is not the end of the story. More work needs to be done.

Some matters of concern probably do not require legislative correction, and I will mention them

because I would like the Minister in this House to respond, and hopefully the Minister responsible for their legislation in the other place, the Hon. Wendy Machin, to consider some of these points. Perhaps they can be resolved through ministerial directives or regulations. For example, the bill does not go far enough according to BARG because:

- (1) The referee has absolute power to omit, reject and vary the Rectification Order
- (2) No rules of evidence
- (3) No transcript available
- (4) Closed court
- (5) The tribunal referees decide as they see fit
- (6) The tribunal referees are still immune from judicial review
- (7) No choice of referees
- (8) No on-site inspection
- (9) The referee can issue rectification orders of no money limit, that is well over \$100,000, despite the monetary limitation order being up to \$25,000 only
- (10) No appeal
- (11) If the consumer loses, [there is] no insurance compensation at all.

It may be that some of those points may be overcome by ministerial authority. It may be that the Minister can show that BARG has misread the legislation and that it is not as bad as they think. We hope that will be the case. BARG helped by putting in its submission in a more positive way some areas of concern in respect of which the bill should be amended. That may be difficult at short notice, but I hope the Government will take on board the changes that BARG would like to see made. It would like the Building Disputes Tribunal provisions changed so that:

- (1) The number of referees in each case should be increased from 1 to 3 if dealing with disputes and Rectification Orders over \$10,000.
- (2) Transcripts should be made available.
- (3) Rules of evidence should apply so that the referee would not have the absolute power to omit, reject or vary as he sees fit.
- (4) The BDT to have open hearing.
- (5) Tribunal referees to be subject to judicial review.
- (6) Choice of referees.
- (7) Provisions for on-site inspections should be made available so that referee can verify and review the defects.
- (8) Tribunal decision may be subject to appeal.

BARG also believes that the bill should change the current system of issuing gold licences; and that the insurance should cover total damage control to a building. I think all of us know that the whole gold licence approach has been misunderstood. People thought the gold licence meant some guarantee of knowledge, experience and quality

of workmanship by the builder, whereas it means absolutely nothing. That has been a sore point: people signed contracts with gold licence builders, thinking that was some sort of guarantee, but some builders turned out to be more than hopeless, and perhaps also dishonest, and ripped off the consumer.

BARG states finally in its submission that during 1991, 1992 and 1993 the BSC received insurance premiums totalling \$45 million and during the same period. So there is no shortage of funds available for genuine cases where the consumer needs insurance money to be paid. BARG requests that the bill be amended to make provision for consumer victims who have paid premiums to be compensated out of the funds amassed by the BSC. I hand the Minister a copy of BARG's requests. It may be difficult to change the bill now, but it may be possible for the Minister to give assurances that some of those matters can be handled by the Minister in charge of the bill, or, if that is not possible, further amendments might be made to the bill in due course. We do not wish to oppose the bill, because it seeks to rectify some of these problems. It may be best to give it a trial and see how the Commercial Tribunal functions and whether it meets some of these consumer concerns.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [5.57], in reply: I thank
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honourable members for their support of this bill. A number of issues have been raised by different members. Many of them have been overlapping concerns as a result of representations that have been made to various members. I note the issues raised by Reverend the Hon. F. J. Nile on behalf of BARG. Those matters were also raised by the Hon. R. S. L. Jones. The Government will take those matters into account as it continues to monitor the operation of this legislation. If it is thought that particular matters should be addressed urgently, they should be raised directly with the Minister, and I will ensure that the Minister replies promptly. In the meantime, I assure honourable members that all matters arising out of this debate will be brought to the Minister's attention.

I shall quickly deal with a number of matters raised by the Hon. J. H. Jobling, the Hon. R. S. L. Jones and Reverend the Hon. F. J. Nile: identifying bad builders. The public record maintained by the BSC records disciplinary action which has been taken by the corporation against contractors. This information is provided to any member of the public inquiring about the status of a licensed builder. The purpose of the bill is to separate disciplinary action from dispute resolution. Rectification orders are part of dispute resolution, and the decision to make a rectification order will be taken by the Building Disputes Tribunal. The public can also inquire of the public register the number of current complaints against a licence holder, and the owner can then obtain an explanation in order to assess the builder's suitability to be contracted.

On increasing insurance cover, the maximum cover under the BSC Act for defective work is currently \$100,000. This amount is the highest cover provided in Australia, and is sufficient for all except the most severe cases. An insurance steering committee is considering whether it is possible to increase the amount of cover, and is looking at the possible privatisation of the insurance scheme, as was recommended by Dr Dodd. Owner builders need to be fully aware of the responsibilities which they take on when they obtain an owner builder's permit. Their decision not to use a building contractor means that they must fill the shoes of a builder and take on the responsibility of organising the trades and supervising the work.

A recent supplement in some Sunday newspapers highlighted pitfalls for owner-builders. The BSC is developing a package for owner-builders which will provide them with information to assist them to fulfil the role they take on. Procedures are being observed to ensure that every owner-builder receives an owner-builder booklet, which has been clarified recently for the benefit of owner-builders. Mediation is acknowledged as a way to settle some cases, but it is not the answer in all matters. For example, some cases involve legal issues that can be determined only by a body such as the Commercial Tribunal.

The BSC will agree to use mediation in a case where mediation is appropriate. The BSC now carries the full risk of providing insurance cover for defective or incomplete building work. Substantial reserves, exceeding \$50 million, are held to meet current and future claims. A thorough and independent assessment of the current and future funding needs of the BSC was carried out by independent consultants and the New South Wales Treasury before any funds were declared surplus to BSC requirements. At this stage \$53 million has been

transferred from the BSC to the Housing Reserve Fund. The funds remaining with the BSC are adequate to meet all anticipated claims which may arise.

I will deal now with mandatory inspections by the Building Disputes Tribunal referee and the provision of transcripts of BDT hearings. It is for the BDT referee to determine whether to carry out inspections. Many matters may not require inspections, because of the nature of defects or because the fault may have already been rectified. A dispute may simply be about moneys owing to one of the parties. Transcripts are not ordinarily provided because the intention of the BDT is to provide cheap and speedy resolution. In fact, most disputes which are heard by the BDT are dealt with in less than one day, and transcripts are not normally needed. The object of the bill in eliminating the 30-day waiting period for complaints is to allow the BSC to get in early in an attempt to solve complaints. The BSC will encourage those in a dispute to use mediation in an attempt to resolve it. The BSC will provide mediation, including technical support, at no cost to the parties. It will be voluntary and either party can withdraw without penalty.

Rectification orders are intended to assist in the resolution of a dispute. Failure to comply with the order is a ground of improper conduct under the disciplinary procedures. Disciplinary action may be taken by the BSC and will be heard in the Commercial Tribunal. An insurance claim is not dependent on the issue of a rectification order. If during the period of a rectification order a consumer prevented a builder from rectifying work, the claim may be refused. If a claim for insurance is refused the claimant may still appeal to the Commercial Tribunal. I trust that those comments satisfy all the concerns raised by honourable members. I thank members for their support for this bill, which I commend to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

[The Deputy-President (The Hon. D. J. Gay) left the chair at 6.05 p.m. The House resumed at 7.45 p.m.]

BUDGET ESTIMATES AND RELATED PAPERS

Financial Year 1994-95

Debate resumed from 20 September.

The Hon. Dr B. P. V. PEZZUTTI [7.45]: Last night I said I was somewhat concerned that the Hon. J. W. Shaw, who is the Opposition spokesman on industrial relations, chose in this debate to speak about education. I drew the attention of the House to

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the honourable member's new interest in protecting the Labor Party, or trade union officials, from the penalties and anti-corruption measures in the New South Wales Industrial Relations Act. I said that the last time Labor tried to help its mates and put them above the law was when it introduced the Industrial Arbitration (Industrial Torts) Amendment Bill, otherwise called the industrial torts bill, which was introduced into the other place by Mr Hills at 3.16 p.m. on 12 November 1986. I remember the occasion vividly.

That bill prohibited action in torts for acts done or omitted to be done by an industrial union of employees or by their officials or members in contemplation or furtherance of an industrial dispute in which the commission had jurisdiction unless the full bench of the commission had given leave for action to be brought. Effectively that put trade union members above the law if they were acting in the furtherance of a dispute. The member for Camden at the time, the Hon. J. J. Fahey, led for the Opposition on that bill and said that it was cynical and blatantly political, designed to deny, or at the very least impede, people in their access to justice under the common law. Mr Fahey continued by saying that the legislation would put the Industrial Commission between those who seek justice and the courts that administer that justice, and create an unnecessary access barrier to the exercise of a basic constitutional freedom. Mr Fahey went on to speak in a powerful way about the bill. Amongst

other things, Mr Fahey said that he would oppose the bill as strongly and loudly as he could in the Chamber. He said:

I give a clear and unequivocal commitment that when the Opposition obtains government after the next elections, the legislation will be repealed. The Minister for Corrective Services, and Assistant Minister for Transport may laugh; he may not laugh so much when he is not here after the next elections.

He condemned the Government and said that the legislation did not offer justice to the citizens of this State; that it was an attempt to pervert the course of justice and would hammer one more nail into the Government's coffin. Mr Fahey was right. Yesterday in another place there was a condolence motion to commemorate Mr Noel Park, the former member for Tamworth. Mr Park spoke after Mr Fahey in the 1986 debate and said:

We are speaking about the right of the individual to seek justice at common law and have unimpeded access to the courts. This is a hard-won right which, as the honourable member for Camden said, has been jealously protected and guarded over the centuries. The measure before the House [this bill] will place a barrier in front of that right; a barrier in the form of the Industrial Commission, a barrier between those seeking justice and the courts which administer that justice.

Mr Park also said:

The legislation gives the Industrial Commission the power to dictate to the Supreme Court, and to decide whether the Supreme Court may or may not hear and determine a matter involving an industrial tort.

Given Noel Park's sterling service to this country in wartime, I am sure he meant every word he said. The member for Dubbo, Mr Peacocke, said this bill was the most dangerous piece of legislation yet to be introduced by Labor. He said it was legislation of a government in its death throes. He continued:

It is a last vain attempt to entrench in the statutes of New South Wales absolute protection for the most extreme unions against their civil wrongs. A tort does not relate to a legitimate strike; it is a civil wrong that is actionable under common law. This type of provision cannot be found anywhere else in the world. It applies to employers and anyone outside a strike who is injuriously affected by union action. This bill is so dangerous that it is one of the watersheds -

Then he was cut off by Mr Wade, the Government Whip at that time, who moved that the question be put. So to ram it home, Labor imposed the gag. In Committee, Mr John Dowd, who became the Attorney General, said:

The fact is that this legislation is designed to put trade unions above the law.

I mention that because it shows the absolute arrogance of the Labor Party; it shows what it has done in the past and what it will attempt to do in the future. Anyone would understand that the coalition, a Government of transparency and honour, was elected to stop that sort of nonsense, to stop it dead and to make sure it did not happen again. When we hear the Leader of the Opposition, Bob Carr, talk of corruption, honour or balanced budgets, we must remember what stable he comes from. We must resolve never to let Labor gain office again. The Leader of the Opposition in the other place, in what is laughably described as his reply to the Budget Speech, spoke about privatisation of health services. He referred to Port Macquarie and Hawkesbury hospitals, both of which are to be public hospitals in the real sense of the word. Their funding is from the Government purse. Money raised to build them is from the private sector and they will be operated by the private sector. However, they will be public hospitals in exactly the same way as other hospitals are public hospitals, with all the necessary protections.

But what is the record of the Federal Government on privatisation? I will not mention the Commonwealth Bank and a few icons such as Qantas. I want to talk about the real icons of this State, our returned soldiers. When the Federal Government realised it was not able to deal with people who were able to claim repatriation benefits, it decided that it could not run health services and that it should get out of that business. It offered the running and the management of those services to this State. With all the difficulties associated with the incorporation of the Concord Repatriation Hospital into the New South Wales health system, our Government decided to offer services at the same high quality offered to other returned servicemen, servicewomen and their

dependants.

The Government decided to enter into the difficult negotiations and the consequent reorganisation of health services in the inner west. The involvement of New South Wales in this process enabled repatriation recipients to have access to public hospital services as private patients, wherever they came from.

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That also guaranteed that if the waiting time was unacceptable, those patients could have access to the private sector. Most States in the Commonwealth agreed with the initiative of New South Wales and made those accommodations. But two States did not. One was the State of Dr Carmen Lawrence, who was Premier of Western Australia. She determined that she would not have a bar of that. The Hollywood Hospital - interestingly named - the repatriation hospital in Western Australia, was privatised and given to the Paul Ramsey group to operate. This resulted in every eligible repatriation patient in Western Australia having to travel from all over the State to that hospital for treatment. I am not saying that the Paul Ramsey group will not run a good hospital - I am sure it will - but for 30,000 recipients in Western Australia the cost to the Commonwealth is more than \$500 million for 10 years.

The same attitude was taken by another Labor State, Queensland. The Premier of that State, Mr Goss, decided that because he did not want to go through the difficult task that New South Wales went through, he would not have Greenslopes Hospital included in the Queensland hospital system. He decided to limit the services for Queensland repatriation patients and recipients to that Brisbane hospital. The privatisation of that repatriation hospital is also being negotiated. Let us not hear anything from Mr Carr or the Labor Party about privatisation. Let us accept the reality of the issue. The Leader of the Opposition in the other place, when referring to privatisation, did not say that the Government brought the Royal Hospital for Women back into the public system when the private arrangement with the Benevolent Society broke down. That hospital now operates as a public hospital, not under the auspices of the Benevolent Society or a private organisation. The Government anti-privatised it, as it were. Other Opposition health lies were exposed yesterday in the other place by my colleague the Minister for Health. The Leader of the Opposition, Bob Carr, visited Penrith and on 6 September said, "We will fast-track making the Nepean Hospital a teaching hospital". To quote my colleague, the Minister said:

What credibility! He had better be quick because it will be completed and opened by the end of this year.

What outrageous cheek that man has!

The Hon. Virginia Chadwick: What was his promise in his *Vision 2000*?

The Hon. Dr B. P. V. PEZZUTTI: He was going to provide \$7 million worth of kitchens for the Nepean Hospital.

The Hon. Virginia Chadwick: And how many operating theatres do we have?

The Hon. Dr B. P. V. PEZZUTTI: I do not know how many we have but I do know that this Government has given the people of Penrith access to the finest health services they are likely to have for years to come. This will be a new teaching hospital with an all-up cost of \$93 million when it is completed by November this year. The Opposition promised \$7.2 million by the year 2000. The Minister for Health pointed out that this Government actually built the kitchens as well. What outrageous lies Opposition members have to make these statements about health issues. They have no idea at all. What contribution did the Deputy Leader of the Opposition, Dr Refshauge, make to this debate? Nothing! He visited the United States, but did not research health issues. He tried to find some dirt on the casino operators. What a joke!

The Hon. Virginia Chadwick: Did he go to Louisiana?

The Hon. Dr B. P. V. PEZZUTTI: I do not know where he went but I do know that he did not come back with any health information. He has been very quiet indeed. No contribution to this debate would be complete without some statement about the drought. New South Wales Agriculture estimates this drought will cost \$1.5 billion in lost production. That means money not going into the pockets of the producers of Australia,

including a \$150 million loss for the wheat industry, \$400 million for the cotton industry and a potential \$100 million loss for the livestock industry. That is devastating to the people of the bush. Since the drought started in January 1991 the New South Wales Government has provided \$32 million in drought relief without any assistance from the Commonwealth. I notice this evening, very late in the piece, that the Prime Minister has come forward with appropriate levels of Commonwealth funding. Though it is late in the day, nevertheless it is most welcome.

The coalition parties view the family farm as the basic business unit of agriculture in New South Wales. Although family farms in the future may operate in larger and more efficient units, they are still our basic building block. Our decision to abolish the stamp duty on the intergenerational transfer of farms is designed to help make family farms stronger. Last week the Deputy Premier, Minister for Public Works, and Minister for Ports announced in the other place that the Maritime Services Board Illawarra Port Authority has reduced the annual site charge for the Australian Wheat Board by 20 per cent, and that will help primary producers during the drought. The Government has taken a number of steps to assist those working family farms, by speeding up control of noxious weeds with extra funding given through the environment portfolio to the National Parks and Wildlife Service for weed and feral animal control in national parks; converting Crown land leases to freehold; and removing stamp duty on the intergenerational transfer of farms. Farmers in New South Wales have strongly embraced the LandCare movement. There are more than 600 LandCare groups in the States. As we come out of the drought, the involvement with the LandCare movement will help the State build for a better future.

The transport budget is marvellous for people on the north coast, particularly with the finalisation of XPT services to that region. It is interesting to see what good management can do. Freight Rail has

increased its productivity by 78 per cent since the Government came to office in 1988 and the amount of freight carried has increased by 20 million tonnes. The tourism industry is the biggest money-spinner in New South Wales, generating \$8 billion per year and employing more than 150,000 people. The Minister for Tourism has been spectacularly successful, and her budgetary process will ensure that proper infrastructure will be put in place, and that proper decision making processes are followed to encourage that industry, thus ensuring that people are attracted in large numbers to look at the seven wonders of New South Wales. The Minister and her board are to be congratulated because they have identified a spectacularly successful yet sustainable way of marketing New South Wales.

The Hon. Jennifer Gardiner: The Minister is the eighth wonder of the world.

The Hon. Dr B. P. V. PEZZUTTI: Indeed, she is the eighth wonder, and Mr Grimm has done a great job. The Minister has set herself achievable targets to position Australia in the international tourism market, in particular during the buildup to the Olympic Games, during the Games, and beyond. Visitor numbers are increasing. The increased budget allocation for tourism will be well spent. The Government's achievements with employment prospects have been nothing short of spectacular, in spite of the drivel we heard last night from the organ grinder's monkey. New South Wales created 90,000 jobs in the last 12 months, or 43 per cent of all jobs in Australia - a spectacular result by any standard. This State has the lowest inflation rate and the lowest unemployment rate of any State.

In the past six years we have poured a huge amount of money into proper infrastructure so that this State can move forward. New South Wales is particularly well placed to advance confidently into the future. I look forward to the next Fahey budget in 1995-96, and beyond. All I can see from now on is continuing support from the people of New South Wales for the Government and its methods, and for John Fahey and his team in 1995. I will make sure that the people of New South Wales do not forget Labor and why the Labor Government was booted out in 1988. They will not forget the neglect and profligacy and the Federal Labor Government and what Mr Carr would do if he were Premier - as Labor Premiers in other States would do. I will not let the people of this State even think about letting Labor return to office. That is an obscene thought, and I am against obscenity.

The Hon. Virginia Chadwick: The Hon. Delcia Kite wants to see Bob Carr as Premier of New South Wales.

The Hon. Dr B. P. V. PEZZUTTI: I am sure she would like to see Peter Anderson back again. I am reminded that the Labor Party's idea of industrial relations is, last on first off. Unfortunately the honourable member for Ashfield was elected before the honourable member for Liverpool. That is a shame for the people of New South Wales, but that is the way Labor plays the game.

The Hon. FRANCA ARENA [8.05]: Before I discuss the budget, and as this is one of the few opportunities to speak generally, I would like to say how sorry I will be to see some members of this House leave after the next election. In particular I refer to Madam Deputy-President, the Hon. Beryl Evans; to my oldest and dearest friend, the Hon. Delcia Kite, the mother of the House, having been here since 1976; to the Hon. Judith Walker, and to my dear and good friend the Hon. K. J. Enderbury. I say to all who will be leaving after the next election how much we have appreciated your companionship. Even though debate at times might have been spirited, we appreciated your courtesy and affection. I want to express my affection for you all and say how much I will miss you after the elections.

I turn to the budget. The Premier, Mr Fahey, is a desperate man. After nearly seven long years in government he is staring defeat straight in the face. Parramatta was a good barometer. Despite \$1.2 billion worth of promises, giving this and giving that, the Government was still done like a dinner. That was a great satisfaction. I express great appreciation to Gabrielle Harrison, who has been a wonderful candidate for the Labor Party. She is a woman not only of great talent but also of great courage. She deserved to win and to win well; she has done both. Congratulations to Gabrielle.

The Hon. John Fahey has claimed that he wants to reduce State debt by having a balanced budget, but the facts do not support this statement. In reality the people of New South Wales are going to have an explosive budget deficit if the Liberal coalition Government is re-elected. A calculation according to the government finance standards of the Australian Bureau of Statistics shows that the 1994-95 Fahey coalition Government budget deficit will be \$572 million. The Premier and the Treasurer have behaved like shopaholics. They have been shopping at the expense of the people of New South Wales and have asked them to pay the bill - all \$572 million of it. But they have underestimated the cost of their proposed shopping spree and told us that their spending will only commit the people of New South Wales to a budget deficit of \$353 million.

The Premier and the Treasurer need to go back to school because they cannot get their sums right. Not only can the Premier, the Hon. John Fahey, and his Treasurer, the Hon. Peter Collins, not get their sums right, but they have tried to con the people of New South Wales by claiming they want a balanced budget. Talk is cheap: sincerity is revealed by action. Terry McCrann of the *Daily Telegraph Mirror* analysed perfectly cheap talk and behaviour.

The Hon. R. T. M. Bull: Are you voting for or against it?

The Hon. FRANCA ARENA: The Opposition will let it through so the people of New South Wales will nail the Government. Members opposite hoped that the Opposition or Independent members would oppose it so that the Government could say it is impossible to govern. But the Opposition will let it

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through. The Government will have to go to a referendum and it will lose it, as it lost Parramatta. On Thursday, 15 September, Mr McCrann wrote of the Treasurer, the Hon. Peter Collins:

Lord, make me pure, but not just yet. And certainly not a bare six months before a cliff-hanger election. We believe in balanced budgets the Fahey Government says, but not this year. Indeed not for some years . . .

That is how it really is. The Fahey Government does not want a balanced budget until 1996-97. Allan Wood, economics editor of the *Australian*, on 15 September, cynically wrote of the balanced budget line:

And the balanced Budget? Ah yes, well, that comes in the next term of office, some time after 1996/97 - provided there isn't an economic downturn, or sunspots or some other unpredictable event.

Members opposite might know of an impending earthquake or volcanic eruption up through the sea. Professor Bob Walker, in the *Sydney Morning Herald* on Thursday, 15 September wrote:

If Fahey and Collins really thought that a balanced budget was so important, then with the recent resurgence in State tax revenues they could have managed a balanced budget for 1994-95.

Actions speak louder than words - and result in fewer lies. Are these the actions of a party that wants a balanced budget? They are the actions of a government that considers the people of New South Wales to be very gullible. It is no wonder people have such a poor perception of politicians. There are a number of other aspects of the Fahey coalition Government's 1994-95 budget which I find disturbing. Let me mention just a few: a slush fund of \$200 million. Where will the Government use such a slush fund? I can just imagine that early next year there will be advertisements in the *Sydney Morning Herald*, in the *Daily Telegraph Mirror* and in the ethnic media saying: the Department of Education is doing this for your children; the Department of Health is doing that. That is how the Government will spend \$200 million of taxpayers' money - advertising the Government and trying to get re-elected. But they cannot fool the people.

The Department of School Education will expend \$2 million to encourage school communities to make the best possible use of assets, and \$18.5 million on other miscellaneous items. What are these miscellaneous items? They have not been outlined. What does it mean? The Department of School Education will raise approximately \$28 million from surplus education property disposals, all of which will be retained by the department and applied towards school capital works projects and building maintenance. I would like to know how an allocation of \$2 million to encourage school communities makes the best possible use of assets, and how \$18.5 million will be expended on other miscellaneous items.

I would also like to know who makes the decision on how these funds will be expended. Fortunately these questions can be asked in estimates committees. After all, questions asked of the Minister for Education, Training and Youth Affairs are never answered by the Minister. She makes an absolute mockery of question time and of the whole parliamentary system. I would also like to know what surplus education property the Department of School Education plans to dispose of and I have something interesting to say about this. The Minister for Education, Training and Youth Affairs is tarred with the same brush as the Premier and the Treasurer are. Ku-ring-gai Council has before it an application from the Department of School Education for the establishment of a long day care centre to operate on the grounds of Killara primary school. On 4 May in this House, in answer to my question without notice, the Hon. Virginia Chadwick, the Minister for Education, Training and Youth Affairs, stated:

The Government is presently asking schools if they are interested in allowing surplus space or spare accommodation to be used for early school education . . . Every decision in this regard is taken by the local school community, not by me. The Killara school community, a progressive and dynamic school community, is keen to have this long day care centre in the school grounds . . . The project is being driven by the school community.

There is considerable evidence to suggest that the Department of School Education is not being so amiable as the Minister suggests. On 16 May a public meeting, by invitation only and *répondez s'il vous plaît*, was held at the Killara primary school. It was left to the action group to notify the whole community of the so-called public meeting. I have been advised that the meeting was attended by Jeremy Kinross, the Liberal member for Gordon; representatives from the Department of School Education, including the director of schools for the northern region, Mr Graham Draydon; Killara primary school principal, Robyn McElvenny; the president of the Killara primary school council, Mr Richard Lennon, and four residents - I repeat, four residents.

I was advised in a telephone conversation with a person who attended the meeting that the Department of School Education informed attendees that it had resolved to commercially develop and contract out a long day care centre for children up to five years of age and to build a Japanese cultural centre with overnight accommodation for two to three nights for 15 or more students, which could be rented out to other community groups on weekends or whenever spare capacity existed, day or night. I have been advised that the president of the Killara primary school council is an adviser to developers and a former mayor of the Ku-ring-gai Council. This is a

matter of grave concern not only to me but to the whole community in the area. In correspondence forwarded to a resident of the Gordon electorate, the Minister for Education, Training and Youth Affairs said:

You and other residents will have the opportunity to communicate with the Ku-ring-gai Council when development applications for each project are lodged.

The land on which Killara primary school is located is public land. It belongs to the people of New South Wales. As I have said, the Department of School

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Education told the by-invitation-only public meeting held earlier this year that the project would be commercially developed and contracted out. I was advised during a telephone conversation with a person from Killara that the Killara primary school council supposedly attended to discern public opinion to this issue by sending out surveys to a number of organisations: six churches; 10 playgroups; one early childhood centre; Ku-ring-gai Council; Hillview; two libraries; Shearer's Bookshop; Masada College; Roseville College; Killara Primary School; two maternity units; BP Food Plus; Beaumont Road primary school, and residents near the school. But I understand the residents near the school claim that they did not receive copies of the survey.

Some of the outlets to which the survey was delivered for distribution are not even in the area. Community consultation on the Killara primary school issue has been shamefully negligible. Survey results are hardly a credible form of community consultation. Answers given can relate only to questions asked without a full understanding of the whole issue. We know that survey results can be fabricated. Who has filled in these survey forms, when people in the area have not received them? The householders living near the school claim that they have not received the surveys. The by-invitation-only public meeting I referred to earlier was told by Department of School Education officials that the department had already made its decision.

Who has heard of a public meeting that was by invitation only? This is happening in a Liberal Party blue-ribbon electorate. This is typical behaviour of the Fahey Government. The irony of it all is that Jeremy Kinross, the local member, attended a by-invitation-only public meeting and allowed Department of School Education officials to inform the four invited members of the public that although they did not want this project to go ahead, it would go ahead anyway. This is not community consultation. Jeremy Kinross has set the precedent for the role of a local member of Parliament. Local members of Parliament can now be a rubber stamp for the Department of School Education and the Minister. Is it a fact that this Government is more concerned with deals than with ideals?

The Hon. Virginia Chadwick: On a point of order: I have shown great tolerance of these most offensive comments. The honourable has attempted to smear my colleagues, officers of my department and presidents of school councils. I challenge her to refer the matter to the Independent Commission Against Corruption or to repeat these ridiculous and disgraceful allegations outside the House, rather than use the coward's castle approach, as is her wont. I am extremely offended not only on my own behalf as Minister but also on behalf of my colleagues. I am offended by the implications and imputations that she has made of colleagues who, as public servants, are not in a position to defend themselves. Her comments are grossly offensive, and I ask her to withdraw them.

The Hon. FRANCA ARENA: On the point of order: this is the Parliament, the forum of the people. I have not come here with allegations; I have come here with facts, which I can substantiate. I am entitled as a member of this House, where freedom of speech has been a convention for 200 years, to present facts as they have been given to me. I see no reason to apologise.

The Hon. Virginia Chadwick: Further to the point of order: I make the simple observation that the honourable member knows, and every honourable member in this Chamber knows, that most of the comments and imputations the honourable member has made in the past 15 minutes she would not make outside this Chamber without ending up in court. She knows exactly what she is doing. She is perpetrating defamation and slander under the privilege of this Parliament. Her remarks about officers of my department and colleagues in another place were grossly offensive.

The DEPUTY-PRESIDENT (The Hon. Beryl Evans): Order! Standing Orders 80 and 81 provide:

80.No Member shall use offensive words against either House of the Legislature, or any Member thereof; nor against any Statute, unless when moving for its repeal.

81.No Member shall digress from the subject matter of any Question under discussion; and or imputations of improper motives, and all personal reflections on Members shall be deemed disorderly.

Members who take exception to remarks that they consider reflect on them personally may seek withdrawal of those remarks but cannot seek withdrawal of personal reflections on persons outside this place, such as members of the committee mentioned. If the Minister is offended by remarks which reflect on her, I uphold the point of order and ask the honourable member to withdraw the remarks.

The Hon. FRANCA ARENA: I would withdraw remarks about the Minister had I made any. But I have said absolutely nothing about her; I have not mentioned her at all.

The DEPUTY-PRESIDENT: Order! I ask the honourable member to continue with her contribution to the debate and not to bring personalities into what she is saying.

The Hon. FRANCA ARENA: This is the Parliament of the people. I thought that here we were -

The DEPUTY-PRESIDENT: Order! I have made a ruling. Either the member accepts it or she should sit down. Does the honourable member accept it?

The Hon. FRANCA ARENA: Yes, Madam-Deputy President. Another aspect of the Government's 1994-95 budget which I find disturbing, and in relation to which the claim of consultation is suspect, is the flexible higher school certificate. That strong body of teachers standing up for teachers rights and the rights of students, the New South Wales Teachers Federation - which is also well known as the *bête noire* of the Minister as it is an entity she can do nothing about - claims that the flexible HSC will mean an end to fairness and equity. In an article in the *Daily Telegraph Mirror* of 16 September the Senior Vice-President of the New South Wales Teachers Federation was reported as saying:

The changes had effectively deregulated the conditions for HSC students and removed Statewide procedures which ensured all students were treated fairly.

In the same article the President of the Federation of Parents and Citizens was reported to say:

Given the HSC was so crucial to students, competition had to be as fair as possible.

The Minister for Education, Training and Youth Affairs, in her usual myopic way, said public schools would not be placed at any disadvantage compared with non-government schools because there was no compulsion for any student, any school or any system to enter into any of the different types of flexible modes of delivery. The flexible HSC goes beyond inter-school disadvantage and reveals only too clearly how insensitive the Minister for Education, Training and Youth Affairs is to the other issues that emanate from the policy. Students completing the flexible HSC in a shorter time frame may have an unfair advantage in the labour market over those students who take longer. There is a danger that potential employers may consider a student who completes the flexible HSC in a shorter time to be more intellectually gifted and a more motivated performer than those students who take longer to complete the HSC. While I acknowledge that there are gifted students, such a term would not automatically apply to students who complete the HSC in the shorter period.

Students who complete the HSC in a shorter time may have parents who are sufficiently well off financially to provide their children with private tutoring. The Assistant Director General, Quality Assurance, of the Department of School Education, Peter Currance, commented in the *Daily Telegraph Mirror* on 12 September that the perception that non-government students had more opportunities may be linked to financial backgrounds. A student who takes longer to complete the HSC may have a number of financial, interpersonal and/or family dynamics issues which prevent the completion of the HSC in a short, or even the current, time frame. Furthermore, the pathways program, which enables students to undertake their HSC over five years may be the preferred option for these students and for those who are not sufficiently well off or whose families are not sufficiently well off financially to enable them to complete the HSC in a short time.

The flexible HSC may also further complicate gender and ethnic performance problems already present in the educational system. The *Daily Telegraph Mirror* of 12 September revealed the findings of a study undertaken by Andre Dua of the Australian Youth Institute. The study, covering 1,295 young people, found that almost one girl in every three felt social pressure to underperform, that is, 31 per cent of girls felt undue social pressure to underachieve at school. Of all the 15- to 25-year-old people questioned 62 per cent believed that private school students had greater opportunities in life than students who attended government schools. Girls talked about social pressure from boys and other girls to underachieve in order to be accepted by their peers. They also spoke of lack of support from parents. Male siblings often received more encouragement, and girls from some ethnic and socioeconomic backgrounds faced more difficulty.

It is my opinion that the flexible HSC contributes further to a widening of the gap between the haves and the have-nots in society. The provision of an additional 200 counsellors is a drop in the ocean when one takes into account the number of schools throughout New South Wales and the social problems teachers are required to deal with. Let us look at the global perspective. What does the education system do if a student is exhibiting behavioural difficulties? It uses a reward system. If a student behaves badly enough, he gets a day off. If he behaves a little worse, he can have a week off. If he is very bad, he can have the rest of his life off.

A truanting student might be down the street selling or using drugs, getting drunk, shoplifting, committing break, enter and steal offences, or consorting with the wrong crowd just to get a buzz out of life. He may get into trouble with the law. The group he hangs around with may comprise people with the same chronic behavioural difficulties who regard that sort of behaviour as "cool". Eventually, the youth is sent to a children's detention centre where he learns new skills. He learns new and more effective ways of committing criminal offences. Relationships are formed with others just like him and he becomes socialised in the criminal subculture. By the time the home-school liaison officer gets to the family all the behavioural patterns have been set in motion.

Some home-school liaison officers say they will not bother with youths older than 14 years and three months. Children, with special permission from the Director-General of School Education, can leave school at the age of 14 years and nine months. The Minister for Education, Training and Youth Affairs has determined that an additional 200 school counsellors are required. Even an additional 200 school counsellors will not be able to deal with the problems that are being encountered. The *Daily Telegraph Mirror* of 8 June states:

According to the Department of Juvenile Justice, 90% of girls in custody have been sexually assaulted.

In the *Daily Telegraph Mirror* of 15 September the Hon. Peter Collins, Treasurer in the Fahey Government, said:

New spending on education this financial year was not only in the community interest but economically defensible because of six years of government restraint.

The money saved in the education portfolio over the past six years will be spent later on gaols and children's detention centres. Children will have to pay the cost for this Government's neglect. The Minister for Education, Training and Youth Affairs needs to go back to the blackboard. I will deal now

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with the Government's spending on health services. In the *Daily Telegraph Mirror* of 15 September the Minister

for Health is quoted as saying:

Sound management of the State's economy under this Government has once again resulted in increased spending on health.

That statement is untrue. Mr Gary Sturgess, former Director-General of the Cabinet Office and a key Greiner adviser, was quoted in the *Australian* of 15 September as saying:

... a drover's dog could have balanced the Budget this year due to the economic upturn.

The Premier and Treasurer do not have the ability of a drover's dog; they could not balance the budget. In a media release dated 14 September the shadow minister -

The Hon. Dr B. P. V. Pezzutti: On a point of order: I find offensive the reference to the Premier and Treasurer as drover's dogs. Madam Deputy-President, I ask you to direct the honourable member to withdraw those remarks.

The Hon. FRANCA ARENA: On the point of order: I will refer once again to what I said. I quoted the words of Mr Sturgess, who said:

... a drover's dog could have balanced the Budget this year due to the economic upturn.

The DEPUTY-PRESIDENT (The Hon. Beryl Evans): Order! I accept the honourable member's explanation. I heard clearly what she said.

The Hon. Dr B. P. V. Pezzutti: Madam Deputy-President -

The DEPUTY-PRESIDENT: Order! The honourable member said she quoted from a statement made by Mr Sturgess. She did not say that it was a statement made about the Premier. I accept her explanation.

The Hon. Helen Sham-Ho: On a point of order: Standing Order 80 provides:

No Member shall use offensive words against either House of the Legislature, or any Member thereof; nor against any Statute, unless when moving for its repeal.

The Hon. Franca Arena referred to the Premier and the Treasurer as drover's dogs.

The DEPUTY-PRESIDENT: Order! The Hon. Franca Arena quoted a statement of Mr Sturgess. No point of order is involved.

The Hon. FRANCA ARENA: The shadow minister for health, Dr Andrew Refshauge MP in a media release dated 14 September described the health budget of the Fahey Government as a dishonest attempt to conceal years of underspending in the health portfolio. The Hon. Peter Collins, Treasurer in the Fahey Government, acknowledges this. In an article in the *Daily Telegraph Mirror* of 15 September Mr Collins is reported as saying that new spending in health was the result of six successive years of government restraint. The word "restraint" should be replaced with the word "neglect".

People who do not tell the truth always manage to trip themselves up somewhere along the line. As a result of the comment made by the Hon. Peter Collins, this Government has been caught out trying to deceive the people of New South Wales. Six months before an election, and after six years of denying the people of New South Wales access to services to which they have been entitled, for which they have paid taxes and which they need, the Fahey Government has the audacity to try to promote itself as the demigod of the health portfolio. This cold and calculating Government has waited until just before an election to acknowledge that these services are needed.

As Dr Refshauge said in his media release, to which I referred earlier, the \$300 million increase on last year's allocation only just covers the \$220 million underspent in the health budget over the last two years. We have been told that health is this Government's top priority. It ought to be. For too long the Fahey coalition Government has denied taxpayers services to which they are entitled. As if a newspaper headline "Sick forced to lie their way into ward beds" is not enough, the *Sun-Herald* of 21 August reported the death of a 14-month-old boy, who waited four hours without treatment at a Sydney hospital. Only after an inquest into the death of the child did the New South Wales Minister for Health pledge to upgrade hospital emergency services. It is reprehensible that it took the death of a 14-month-old child to cause the Minister for Health to pledge to upgrade hospital emergency wards.

The Australian Medical Association launched an attack on the health policies of the coalition Government after a poll revealed that hospital waiting lists were the greatest concern of New South Wales voters. A Saulwick poll in the *Sydney Morning Herald* of 8 August found that 38 per cent of voters wanted their taxes to be spent on reducing hospital waiting lists for elective surgery. It is despicable that the coalition Government has allowed health services to fall into such disarray! People have died; people have suffered; people have been denied access to health care entitlements. We are talking about someone's spouse, someone's child or someone's grandparent. This Government has not shown a humanitarian attitude towards human beings. My comments relating to the management of the ethnic affairs portfolio confirm that the Government has frittered away taxpayers dollars in an attempt to win votes rather than to provide essential services to those who need them. This Government does not deserve another term in office. I would not call such negligence sound management of the State's economy. I would call it dereliction of duty. The Minister for Health should be ashamed for suggesting that to deny essential services is sound management of the economy.

A matter of considerable concern to me is the female genital mutilation education program. I have asked the Attorney General about allocations to support the legislation that passed recently through this House but that bill remains to be considered by

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the lower House. The Attorney General assured me that money would be allocated for that purpose in the ethnic affairs budget. I look forward to asking questions about that allocation during the hearings of the estimates committees. Honourable members who contributed to the debate on that bill in this House said that education should go hand in hand with the legislation.

As the Attorney General's Department is responsible for that piece of legislation, I fail to understand why any such allocation should come from the vote of the ethnic affairs ministry. However, so long as the money is made available I do not care whether it comes from the budget of the Attorney General's Department or the ethnic affairs ministry. I am sure it is not the intention of the Government - it certainly is not the intention of the Opposition - to throw poor migrant and African women in gaol, to make criminals of women who have already suffered more than they should. Despite the criticism that has been levelled at the legislation since it passed through this House, I am sure the community will support it as a necessary deterrent against this barbaric practice.

I now speak about ethnic affairs. As *Hansard* would confirm, I have always shown great restraint when speaking about individual members of Parliament. I have always preferred to attack policies rather than individuals. But this time I have to put into perspective the performance of the present Minister for Multicultural and Ethnic Affairs. Soon after his appointment as Minister, Mr Photios was dubbed "Mr Fatuous" by the ethnic community: he was all froth and bubble and lacked any substance. Government members might suggest that it was a term of ridicule offered by the Opposition, but I assure the House that is not so. It has proved to be a fitting description for this Minister, who thinks that attending functions, giving grants, and making silly speeches over and over again are what ethnic affairs is all about. I realise the Minister is young and inexperienced. I have found him to be a pleasant person. However, he has a lot to learn. Mr Michael Photios has been one of the less credible ethnic affairs Ministers. If he continues to behave in the way he has been behaving in the last 12 months, he should not rely on getting a bipartisan approach from the Opposition to his policies.

Since his appointment, he has bored ethnic communities out of their minds by declaring at every

opportunity, "I am the youngest Minister; I am the only stand-alone Minister for Multicultural and Ethnic Affairs in Australia". Though this may be true, when one hears this over and over again, one wonders whether a little bit of modesty would not go astray. I served from 1981 to 1986 under the most eminent Premier and Minister for Ethnic Affairs, the Hon. Neville Wran. Under Neville Wran some of the most progressive reforms in ethnic affairs were instituted. I refer to anti-discrimination legislation, the setting up of the Ethnic Affairs Commission, equal employment opportunity legislation, and so on. His excellent work was continued by the Hon. Nick Greiner.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I ask for vocal restraint from honourable members who have not yet contributed to the debate.

The Hon. FRANCA ARENA: Nick Greiner was this State's first overseas born ethnic affairs Minister, but I never heard him boast about it. The Wran Government and the Greiner Government provided considerable funding to ethnic communities, but neither Premier scattered cheques about like confetti, as the Hon. Michael Photios has done. Minister Photios often gave the impression that the money he was giving away was his own and not that of taxpayers. He attends function after function, passing out cheques like confetti to different organisations, even when no formal submission for funding has been made to the Ethnic Affairs Commission. He has been an embarrassment to a number of commissioners. With sadness I note that not one of them had the internal fortitude to stand up to him or to go public about him.

Some recent examples of funding from the Hon. Michael Photios include: an extra \$50,000 on top of the \$250,000 already made available to the Ethnic Community Council of New South Wales; and an extra \$8,000 to the Federation of Ethnic Schools. On Italian National Day he attended celebrations with a nice big smile and dropped a cheque for \$8,200 to cover the cost of the function. At an Italian ball he gave the Italian Welfare Organisation \$6,000 to establish a choir. This was funding that had not been asked for. If there is something that Italians are good at it is singing. Why would they need another \$6,000 to establish a choir? The *India Post* newspaper of 4 August carried an article that referred to a reception at which the Government announced the provision of funding of more than \$100,000 for groups from the subcontinent. The Italian newspaper *La Fiamma* on 8 August reported that Ivan Petch presented \$4,000 to the obscure group Associazione Nissorini San Giuseppe. During the Parramatta by-election campaign Minister Photios gave \$36,000 to the Filipino community in an attempt to buy votes. The list goes on and on.

The Hon. Dr B. P. V. Pezzutti: On a point of order: the honourable member just said that the Minister tried to buy votes. That was a reference to the Minister for Multicultural and Ethnic Affairs. I find that offensive, and I ask her to withdraw it.

The PRESIDENT: Order! I must confess that in the melee I did not hear that. If the honourable member is willing to agree that she did say that, I require her to withdraw it.

The Hon. FRANCA ARENA: Mr President, I said that he made grants, trying to buy votes.

The PRESIDENT: Order! It is better that I should rule that there is no point of order involved at this stage.

The Hon. FRANCA ARENA: My track record outside and inside Parliament clearly shows that I believe the ethnic communities of this State deserve a

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return on their taxes - money that they have paid. Like any other groups in our community, ethnic communities are entitled to government grants. However, undignified behaviour of this nature has brought contempt and ridicule to Mr Photios, the coalition Government and ethnic communities, which have been victimised by the media as if it is their fault that this Minister has gone overboard in a futile attempt to win votes. Of course people are happy to receive money. Of course the grants they receive may well be able to be justified. But Mr Photios should learn that there is a proper and dignified way of doing things. He is demeaning himself and the ethnic communities of this State. The ethnic affairs portfolio has cost the people of New South Wales between \$1 million and \$2 million a year to run. Mr Photios has a staff of 11. His personal staff includes two press secretaries, two policy advisers,

two private secretaries, a driver, and others I have not been able to identify.

The Hon. M. R. Egan: And all because the Premier will not take it in his own portfolio.

The Hon. FRANCA ARENA: Exactly. Though he has 11 staff members, all this overworked Minister has to do is administer the Ethnic Affairs Commission Act. That is all. It is ridiculous. Given that this State has a chronic need for urgent essential services, it is a shameful waste of taxpayers' money. At this point I have a confession to make. It has always been my ambition to one day become a minister for ethnic affairs. When Bob Carr indicated that in a future Labor government he would be the minister for ethnic affairs I was somewhat disappointed. However, looking at the expense the first Minister for Multicultural and Ethnic Affairs has incurred and the mess he has made of his portfolio, I fully support my leader, Bob Carr. I shall be happy to serve a future Labor government in another ministerial or equivalent position. To impose at such cost a Minister on the people of New South Wales is ludicrous.

Moreover, Mr Photios has found suddenly that he has Greek roots, of which he should always have been proud, not just when it gives him a power base in the Greek community. Mr Photios has used his ethnicity and Greek heritage to further his own political advantage. During the Greek-Macedonian problem Mr Photios played a divisive role. Instead of acting as a calming influence and providing a mediatory role in the two communities - as any credible Minister for Ethnic Affairs ought to do - Mr Photios inflamed the situation by taking sides. He misled the Minister for Industrial Relations and Employment in a letter dated 20 May, in which he said:

The Hon. Nick Bolkus MP Minister for Immigration and Ethnic Affairs, at a recent meeting of State and Territory Ministers, formerly requested that all Governments adopt the descriptive term "Slav Macedonian" in the use of terminology within our administrations. He indicated that following continued community consultation these guidelines would be described to all States.

Piers Akerman reported in the *Daily Telegraph Mirror* on 4 August:

According to others present at the meeting, Mr Bolkus made no such request of those present, and furthermore there was no agreed position on the use of term "Slav Macedonia".

The Hon. Michael Photios either does not understand English very well or he misled the Minister for Industrial Relations and Employment. Mr Photios has played a divisive role. We live in this multicultural society in peace and harmony only if we all play our roles in defusing problems in Australia that cannot be solved. The Greek-Macedonian problem must be solved in Europe where it started. The Minister was advised not to inflame community feelings, but he played a politically expedient role, which caused much antagonism and anguish. I say that as a member of one of the older communities. The Greeks, Italians and Macedonians came to Australia at about the same time, in the late 1940s and early 1950s. We came at a time when there were no services and no portfolio of multicultural and ethnic affairs. We all went through the same difficult process, so I am not taking sides. I have great affection for them.

I will be proud to open the Macedonian conference and the following week to visit the Greek community. I am not here to decide if "Slav Macedonian" is the right term; other people should decide that. It is a disgrace that the Minister should have inflamed feelings solely for his own political expediency. The first word that comes to my mind about the ethnic affairs budget is pathetic. Last year a complete budget paper described ethnic affairs programs. George Souris, who is a gentleman, was Minister for Ethnic Affairs for only a short time. I was delighted to have a bipartisan policy with him, and I stuck to it. However, that is an impossibility with a person like Michael Photios. Last year the allocation for ethnic affairs was increased by 57 per cent, yet ethnic affairs is mentioned only a few times in the budget papers this year. The Minister, in a press release dated 3 March, following his contribution to the Address-in-Reply debate, said:

The major features of the 1994 program include:

- * the implementation of the NSW Charter of Principles for a Culturally Diverse Society;

- * the development of an "all of government" Ethnic Affairs Strategy;
- * a vastly expanded Ethnic Affairs Commission grant program;
- * promotion of the contribution of people of non-English speaking backgrounds to public life;
- * individual projects including the Museum of Immigration.

What has happened to these programs? There is not a word about them. Where is the budget allocation? Not a word about it. What has happened to the budget's \$300,000 allocation for the feasibility study into an immigration museum? We do not know where that \$300,000 has gone or what has happened to it. It is pathetic.

The Hon. M. R. Egan: Like the wilderness proposal.

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The Hon. FRANCA ARENA: Exactly. What allocation has been made this year for the immigration museum? Is it going ahead? And what about the charter of principles, the fantastic motherhood statement that says that we all love each other. What has happened to it and where are the strategies to implement it? There has not been a word about it. However, I suppose that just before the election the money will become available for the immigration museum and the charter of principles. The Government thinks that ethnic communities are like mobs of sheep who do not understand anything, take everything on the nose and vote as the Government wishes. I have news for Mr Photios and Mr Fahey.

According to details contained in the Monash University centre for population and urban research journal *People and Places*, this is all happening at a time when government policies on immigration and employment are creating ethnically based underclasses, marginalising new immigrants from the mainstream work force and adding to welfare costs. The unemployment rates amongst migrants from non-English speaking backgrounds, especially among Vietnamese, Lebanese and Turkish people, are as high as 80 per cent in the first few years they are in Australia, and these unemployment rates continue to be very high even after they have been in Australia for a number of years. These are real and grave problems that the Minister should be addressing, instead of going around to functions with confetti in his pockets.

The recent events in Cabramatta have highlighted the desperate need for ethnic youth workers to work in areas such as Cabramatta, Marrickville and Bankstown, with unemployed youths involved in all sorts of dysfunctional, antisocial behaviours and criminal activities. Unfortunately, we have seen a rising of young criminal gangs, some from ethnic backgrounds, and that is breaking my heart. We need more ethnic youth workers and resources so that programs can be implemented for these large groups of unemployed youths. Ethnic affairs has been almost a disaster for the Fahey coalition Government even though it now has a separate ministry. Also, a number of members on the Government benches from ethnic backgrounds are trying to bolster the Government's image amongst ethnic communities. The Fahey coalition Government is fooling itself that all it needs to do is to send Government representatives to ethnic functions.

The minority who attend ethnic functions are not representative of the ethnic communities at large that are in need of services and who vote governments in and out of office, not because they are instructed to do so by their leaders - they are not voting sheep - but because they will judge the Fahey coalition Government and the policies of the Opposition and the extent to which those policies will provide a better life for them and their children. The figures show that the majority of people in ethnic communities in this State still trust and prefer a Labor government. I have no doubt that they will support Labor in the 1995 election. Before I conclude I should like to say how saddened I was recently by an event in this Chamber. We ask the public to respect our position as parliamentarians. We ask the public to think well of us, and of our ability to make judgments concerning legislation affecting their lives. How can this happen when members in this Chamber are allowed to call each other "idiot" without the term being ruled unparliamentary? The term demeans all members and, above all, it demeans the dignity of this House.

The Hon. Dr MARLENE GOLDSMITH [9.00]: I commend the Treasurer and the Government for an excellent budget, which is a vindication of the difficult decisions that have had to be made in New South Wales since the election of the coalition in 1988. At around that time Western Australia, South Australia and Victoria had Labor governments. Western Australia had Brian Burke and David Parker. South Australia had the South Australian State Bank and Victoria had Tricontinental. In contrast, New South Wales was cutting back on the expenses run up by its previous profligate Labor Government. New South Wales had the advantage of time. Things have been difficult for New South Wales, but in the end the amount of each tax dollar swallowed up in paying interest on the State debts is little more than half the level of Victoria's - although Victoria's situation has been improving dramatically since the election of the Kennett Liberal Government.

As the Treasurer stated, this budget delivers the benefits of six years of reform. It puts New South Wales in striking distance of a sustainable balanced budget for the first time in living memory; it delivers on debt reduction while actually reducing taxes and charges; it promotes further sustained economic development; and, most important of all, it is built on a commonsense balance between the need for continued strong financial control and the needs of a community and a State economy still recovering from recession. The tough decisions, efficiency gains and restraint of the past have restored flexibility to the budget process, and for the first time in six years we can afford as a State to extend our priority lists and funding for services. The improvements and positive initiatives can be seen right across the spectrum, in education, health, law and order and community services.

I would like to give special commendation to the parents as teachers program, which has been expanded from an initial pilot program covering three schools to cover 10 schools across New South Wales. The Standing Committee on Social Issues in repeated inquiries has recommended the development of parenting programs to assist parents to be effective and positive parents. In particular, the committee has recommended the parents as teachers program, which is a support program for parents of children from birth to three years of age. It provides information for parents as to how they can optimise their child's positive development at various ages and stages, for example, six months, nine months, 12 months and so on.

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The program also provides regular playgroup sessions and networking with other parents and home visits by parent educators to check on the progress of the children and to ascertain whether the home environment might be stressful or dangerous for the child. If there are indicators that the child might be at risk of abuse, assistance is provided for parents. This is a program to empower parents to be their children's first and best educators. As an educator, I know that the most important time for learning and for developing the capacity to learn is during the first three years of life. Unless we get it right for children then, our whole school system is likely to be an expensive exercise in shutting the stable door after the horse has bolted.

Several years ago the coalition Government set up a pilot program at three sites, at Liverpool, Wagga Wagga and Manly, to provide the parents as teachers program to new parents. Now the program will be expanded to seven new schools throughout the State. For me, this is the most significant initiative that the Government has undertaken during the International Year of the Family. As a result of the change, the program will from 1995 cater for over 3,000 children. The new schools to receive the program are Wallsend South Public School in the Hunter region, Bowen Public School in western New South Wales, Madang Avenue Public School in Sydney's west, Punchbowl Public School, Moree Public School in the north-west of New South Wales, Ballina Public School on the north coast, and Warilla Public School on the south coast. I would particularly like to commend Warilla Public School because it played a very important role in developing the model for the parents as teachers program in New South Wales to make it accessible and affordable for more communities.

I am delighted with the initiative to extend the program for I know it will mean a great deal to the more than 3,000 children and their parents who will be involved in it. The potential savings of such a program for society just in dollar terms, not including human pain and suffering, are enormous. Effective parenting can, and will, slash child abuse, maximise children's capacity to succeed in schools thus eliminating for many the need for remedial education, cut the incidence of crime, both juvenile and adult, and result in us having to spend much less

money keeping people locked up in gaols. A recent analysis by Gene Stephens entitled *The Global Crime Wave - and What We Can do About It* states that parenting and child care are "critical to crime rates in any culture". The type of society likely to produce law-abiding parents is one that "assures that parents receive preparation for infant care and provides support for parents in caring for their children". In the type of society that has high crime rates, the analysis stated:

... nothing is required to be a parent - no knowledge, no skills, no income. Regardless of economic circumstances, the parent is on his or her own to care for the child.

If one goes into our gaols one will find a high correlation between illiteracy and criminality. The parents as teachers program has a substantial impact on literacy. Children who have gone through the three parents as teachers pilot programs are performing remarkably well. They are significantly ahead of other children of their age in cognitive development, language skills and social skills. What is more, children from what would be regarded traditionally as disadvantaged backgrounds are performing as well as children from more advantaged backgrounds. If we truly care about making sure that every child counts in our society, has the chance and the opportunity to succeed, and has effective parenting, we need to start with programs such as parents as teachers. If there is one fundamental human right to which children are entitled, it is the right to be parented. It is about time that we as a society took seriously our obligation to ensure that children are given that right. This Government - and I particularly want to commend the Minister for Education, Training and Youth Affairs - is indeed blazing a trail in that area in Australia and internationally.

This budget deserves special commendation when examined in context. I turn to comments made by Mike Nahan in a recent issue of the *IPA Review*, volume 47, No. 1. Mr Nahan was looking at the recent Commonwealth budget. We need to look at the funding New South Wales receives from the Commonwealth. That funding, although it has declined as a proportion of our State's funds, is still a fundamental right of this State, considering that our tax dollars are meant to be the primary income for government in this country and that the Federal Government has a responsibility to disburse a reasonable proportion of those dollars to the States. Dr Nahan stated in his article:

As is too often the case, commentary on the 1994-95 Commonwealth Budget in the Commonwealth's White Paper, *Working Nation*, has overlooked the States.

...

The message of the Budget is clear: more spending is needed and we need not worry about either the low level of domestic savings ... or the rapidly rising level and cost of public debt ...

He alluded to low levels of savings, which are continuing to decline nationally. Commonwealth debt is forecast to rise by 15 per cent to around \$95 billion and interest payments by 29 per cent during 1994-95. Dr Nahan contrasted the Commonwealth Government's message on its budget with what is going on in the States. He said:

This message, of course, runs counter to the message that the States are rightly trying to give to their constituents. As such, the Commonwealth Budget undermines the already difficult fiscal task confronting most States.

The Commonwealth's solution to this mixed message is the same as it has been in the past, namely, to limit the States' options by tightening the screws on grants to the States, and to maintain tight control over how these grants and other State moneys are spent. In other words, the Commonwealth is attempting to force the States to act as it wishes them to, rather than as their constituents may wish or how the Commonwealth itself acts.

Dr Nahan pointed out the level of increases of grants to the States and pointed out that they were forecast to expand by a rather modest 0.7 per cent, or in real

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terms 1.6 per cent, in 1994-95 while spending by the Commonwealth for its own purposes is forecast to grow by 7.6 per cent, or by 5.4 per cent in real terms. That is the nub. The Commonwealth keeps taking more and more of our

money for itself, keeping it for itself, and not returning it to the States to provide essential services. The specific consequence, as Dr Nahan said, is that such unfairness will result in the Commonwealth's own purpose outlays reaching 19.4 per cent of gross domestic product - a record high - and grants to the States falling to 5.3 per cent of GDP - a record low. That is the appalling context of this budget. Dr Nahan concludes that the prime lesson from the latest Commonwealth budget and the white paper is that it is time to rebalance the political system away from Canberra towards the States. I could not agree more.

But even so, even within this context we have to look at this budget for what it is, a budget of achievement, a budget that deserves particular commendation for having been delivered in such a context, the context of the Federal Government continuing to squeeze this State as it has done for years. The Federal Government has been cutting back its level of support for the States for years, a strategy that allows the Keating Government to be lavish spenders with the tax dollars that should be returned to the States for hospitals, schools, transport and other basic infrastructure and services. It is our money that the Federal Government is spending - or wasting - that makes this budget particularly remarkable in achieving what it has. Such injustices are exacerbated by the ongoing discrepancies between States on the return of our tax dollars from the Federal Government.

Still New South Wales continues to subsidise Queensland even though Queensland with its long history of non-Labor government avoided the sea of red ink that swamped New South Wales, Victoria and other States while they had Labor governments. Queensland does not have to lose any portion of its State income for debt maintenance, yet New South Wales continues to receive much less of its tax receipts from the Federal Government than Queensland. Each Queenslander is worth more to the Federal Government than each resident of New South Wales even though Sydney continues to be the principal residence, for example, of immigrants to Australia, who have many special needs in getting established. The formula for allocating funds among the States remains, in spite of tinkering, grossly unfair. Regarding the tax cuts announced in this State budget, tax cuts work.

Alan Reynolds, an economist with the Hudson Institute in the United States of America, analysed countries that changed their tax systems in the mid to late 1980s. We now have the information on such changes. It proves to be most interesting. For example, in 1985 after six years of depression, Bolivia's annual inflation rate was 23,000 per cent and its output per capita after adjusting for the increases in prices had fallen 30 per cent. By 1987, however, inflation had dropped to 10.6 per cent and the economy began expanding at a rate of 2 per cent despite weak prices for two of Bolivia's main exports, tin and natural gas. "How did they do it?" Mr Reynolds asks. The answer is that the highest income tax rate was reduced to 10 per cent.

The Indian Ocean island of Mauritius likewise had a 17.6 per cent unemployment rate in the mid-1980s. By halving its tax rates Mauritius was able to greatly reduce that figure. Jamaica and Turkey are two other examples of countries that have lowered their tax rates. It is now well established that the first Reagan administration in the United States, which substantially slashed taxes - particularly for the wealthy, despite a great deal of criticism - managed to achieve the remarkable feat of the wealthy paying more tax because they invested less of their fortunes in expensive lawyers trying to avoid tax, one presumes, among other reasons. Low tax rates work. The tax cuts in this budget are indeed to be commended. They will help fuel and continue the recovery of this State that has led Australia and is assisting it to come out of the appalling recession that the Prime Minister, when he was the Treasurer of Australia, told us we had to have.

No comment on this budget would be complete without reference to the major social challenge confronting our society today - the rural crisis. In the mid-1960s Australia had the world's fourth highest standard of living. Today we are eighteenth in the world and in a few short years are expected to be twentieth or twenty-first. Such appalling facts are strongly related in no small way to the way Australia has treated its rural areas. The number of farms have almost halved in the last 25 years. In the last 10 years alone inland rural shires have lost 40,000 inhabitants. In a country where the overall population is growing substantially each year, 140,000 - more than the entire population of the outback put together - are added to the east coast alone. I am indebted for those facts to Julian Cribb, the science and technology writer for the *Australian*, for an address he gave to the Country Shires conference at Young on 30 April, and I am particularly grateful to Mr Frank Robinson of Gunnedah for bringing Mr Cribb's powerful address to my attention. Mr Cribb stated, "The heartland is emptying just as it once filled". He asked some very pertinent questions:

What is the human price of this policy which makes two classes of Australians - the privileged dwellers on the coast and in the city, and the neglected, dwindling inhabitants of the inland?

Is this what we settled Australia for?

So that we could desert it?

So that we could make of it a country without a heart?

...

If I have noticed a change come over rural Australia in the last ten years, it is the collective droop in its shoulders. It has lost the spark in its eye, the vision, the gutsy independence of spirit that once made it such a special place.

I empathise with Mr Cribb's concern for rural Australia and his very real anger. With mounting concern I too have noticed the increasing inequalities

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between urban and rural Australia. Just last weekend I was in Gunnedah for the Women on the Land conference. Women from all over New South Wales came together to deal with the issues and concerns confronting rural Australia. Real pain was expressed by many of the people in attendance at that conference. I am pleased that at last urban Australia is beginning to recognise the problems that people in rural Australia have been living with for years. This drought did not begin yesterday; it began years ago. The downturn in rural Australia did not begin yesterday; it began a generation ago at least. I was there and I have seen the changes.

In this context I am particularly pleased with a number of the initiatives in the budget. For example, \$10 million has been allocated for exceptional circumstances assistance for drought affected farmers; \$10 million for continuation of the drought transport subsidy program; \$2.3 million to acquire sites affected by chemical contamination from former cattle tick dip sites - in other words, to improve the rural environment; funding has been provided for the development, repair and ongoing support of country roads - an important initiative, especially given the disparity between urban and rural death rates on roads; \$8.3 million for women's cancer screening, particularly to allow the rapid expansion of the program in country areas; and ongoing support for the Rural Women's Network, which I commend in particular. That network was central to the organisation of the Women on the Land Day in Gunnedah.

For some years one woman who attended that conference had not left the property on which she lived. Her attendance at the conference in Gunnedah last weekend was her first visit away from the property. Things have become desperate for some people on the land. I commend the sponsors of that conference for making it possible for people such as that woman to attend. The Women's Information and Referral Service has also received funding. That service has a 008 number, which assists isolated and rural women to obtain access to services provided by the Government. The use of technology to help ameliorate some of the problems of isolation must not be underestimated. The 008 telephone number at the Rape Crisis Centre is also important. Rural financial counsellors are to receive ongoing funding. That important initiative has been brought to the attention of the Standing Committee on Social Issues in its current inquiry into rural suicide.

The special distance education benefits that the Government has provided over the years are continued and supported. Overall, the program is necessary and commendable for rural Australia; it is nothing less than social justice. Much is heard about social justice in our society, but, increasingly, country Australians are the poorest, most unjustly treated people in our society - those who are most in need of social justice, those who are the most economically disadvantaged - and are often socially deprived of access to services and benefits provided by the Government. This Government recognises that; I only wish the Federal Government recognised it. Paul Keating has belatedly acknowledged the rural crisis. However, I read a somewhat ironic comment in the *Sydney Morning Herald* a few days after his trip to the bush: "For sale: one pair of moleskins, one pair of elastic-sided boots, one checked shirt. Only worn once. Apply the Lodge".

The Hon. Virginia Chadwick: Of course, all the men who met him were wearing jackets and ties.

The Hon. Dr MARLENE GOLDSMITH: The Minister is quite correct: the gentlemen in the country put on their jackets and ties to meet the Prime Minister. They paid him that courtesy.

The Hon. Virginia Chadwick: He did not need to look like an R. M. Williams advertisement.

The Hon. Dr MARLENE GOLDSMITH: No. I presume it would have been his first visit to R. M. Williams, if that is where he acquired his outfit. That was the worst kind of patronising of country people. But the Prime Minister has always had too much of an interest in clothes and not enough interest in Australia. In response to some - but only some - of the nonsense that I have just heard in this Chamber, it is difficult to believe that any member of the Labor Party, especially one who was a member of this Chamber during the previous Labor Government, could have the gall to accuse this Government of being spendthrift, especially with this budget. But the Hon. Franca Arena did just that.

I wonder if the honourable member has compared this budget with the recent promises of her party leader? Additional education promises alone will cost more than \$1 billion. I am sure the Minister for Education, Training and Youth Affairs would be able to confirm that. I have lost track of other reckless promises - the promises of a man who is obviously so desperate for votes that he is paying no attention to the possibility of ever being held accountable for implementing any of them. Perhaps he is a realist and knows that it is highly unlikely that the people of New South Wales would put such an irresponsible crew into government.

The Hon. Franca Arena referred to the flexible higher school certificate. I would have thought that of all people she, who claims to represent and support ethnic communities, would congratulate the Government on this extension of opportunity to the students of New South Wales. The flexible HSC is designed to help, and will help, the disadvantaged. It is disappointing that the honourable member should care so little about such needy students, including many young people from non-English speaking backgrounds. I will leave it to other members to discuss her comments on other matters as this debate progresses; and I am quite sure there will be much lively discussion. This is a most responsible state budget. Because of responsible government during the past six years this budget will provide rewards to the people of New South Wales. It will help New South Wales along the road to recovery. It is a budget that I am pleased to support.

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The Hon. D. F. MOPPETT [9.30]: I would like to offer a modest tribute to the late Noel Park ED, DSO. I think all honourable members would agree that Noel Park was an extraordinary fellow, a gentle and kind man who had a highly developed sense of duty and patriotism. He was a distinguished ex-serviceman, having won the Distinguished Service Order. The memory we have of Noel Park is incongruous with the memory we have of the former member for Tamworth whom we met around Parliament House. He seemed to be the sort of person who would not raise a hand in anger against anybody, yet he answered the call of duty to his fellow countrymen. Honourable members will remember that he celebrated with great pride his association with his military unit and kept alive the traditions of the Hunter River Lancers. My knowledge of Noel is restricted to his parliamentary career. Noel Park was an exemplary parliamentarian who believed deeply in our Constitution and had the utmost conviction in the supremacy of Parliament and its efficacy in dealing with the complex problems of modern society. We as parliamentarians can only hope to emulate his service to the community of Tamworth.

Noel Park passed away late last week and his funeral service will be held in Tamworth on Friday. I am sure many of his colleagues from this House and the other place will gather together and will have in mind the same sentiments that I am trying to express tonight. I am sure they will express sorrow at his passing and great admiration for what he did for all Australians, but particularly for the people of Tamworth. He did not aspire to high office; I do not think it ever disturbed him that he did not achieve ministerial rank. Noel Park quietly went about his work serving his fellow man without fear or favour, and did so to the great credit of our parliamentary

system. I have referred to Noel's marvellous contribution to Australian life, but it would be remiss of me not to mention his wife, June, who survives him. She must be deeply bereft by his passing. I am sure that the members of Noel's family will support June. On behalf of all honourable members I express condolences to June. I hope she will be heartened by the condolences expressed tonight and at the funeral on Friday. I hope she will recover from her sorrow as soon as possible.

Before I deal with the budget I wish to address a subject to which a number of honourable members have referred in this debate: the drought and its effect on country areas in New South Wales and Queensland. I welcome the announcement today of the Commonwealth package to meet the crisis that has been identified in those two States. I remind honourable members of the debate that took place in this Chamber in 1992 - at about this time of year. I think honourable members ought to be reminded of the debate that ensued and the bipartisan contributions made by members of the Australian Labor Party, Call to Australia, and the Australian Democrats on a matter of public importance concerning the drought.

At that stage we had just been presented with the drought policy of the Commonwealth Government. A strong strand of economic rationalism was introduced into the debate, which basically had as its objective the removal of drought from the Commonwealth Government's list of natural disasters. Michael Tooth, a former president of the New South Wales Farmers Association and a representative on a committee that included people other than parliamentarians, objected strongly to the concept that farmers needed to take drought in their stride no matter how severe it was. Nevertheless, in 1992 that was the fait accompli of the Commonwealth Government. When one talks about the agreement that was signed off in 1992, most of the negotiations undertaken by the Commonwealth Government were in the following terms: this is our idea; if you do not agree with it you can fund your side of it yourself. There was little room for the States to do anything other than to comply with the new guidelines for dealing with exigencies in rural Australia. Of course, we were interested particularly in New South Wales.

When that debate took place I tried to point out that the crises that occur in our farming communities are not confined to a particular drought. Droughts result from recurrent dry spells and end up catastrophically. Economic circumstances severely deplete the financial resources of the farming sector, which is unable to meet the demands that are placed upon it. I spoke at great length about the impact on the sheep and wool industry of the collapse of the wool support price scheme and the catastrophic fall in the price of sheep. Honourable members will remember that sheep were disposed of as humanely as possible, but very often at great cost to producers. The whole asset bases of farmers were virtually destroyed by those circumstances - and on top of that was this climatic factor.

In my view that was the basis for appealing to the Federal Government to consider special circumstances. Whilst our part in the whole exercise may have been a small one, it was nevertheless highly significant at that time. As a result the then Minister for Agriculture and Rural Affairs, Mr Armstrong, attended a conference in Canberra, after which the special circumstances provision applied. The Federal Minister at that time was the Hon. Simon Crean, who went on a fact-finding mission to Queensland and parts of New South Wales and acknowledged that what he saw in the way of social disturbance and economic catastrophe was far beyond what he had been led to believe existed. The special circumstances provision was then introduced.

A number of particular compartments should be looked at. The public focus over the past few weeks has been on people in extremely difficult circumstances. The illustration has been used of those who find themselves in great difficulty in providing the wherewithal to purchase the necessities of life, such as food and clothing. Honourable members need to remember that this is a small segment of an overall problem. Whilst those segments need to be dealt with in a sympathetic way, it is terribly important at the same time that we endeavour to maintain the integrity and viability of the industry overall. When debate is resumed on the motion moved last Thursday about

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drought relief, there may be an occasion to speak at greater length about the drought and its implications. This package has addressed a number of issues. It is quite true, as some commentators have said, that the Federal Government has stepped around the request to reintroduce the fodder subsidy that was paid during the 1980-83

drought.

I addressed that subject during the debate. Perhaps vicariously on behalf of the farming community I say that I do not believe in looking a gift-horse in the mouth. It is silly to say that there is greater virtue in money given by a Federal or State government to a farmer, whether by way of interest rate or fodder subsidy. At the end of the day the bank assesses his viability by adding up the figures in one column, adding up the figures in the other, and calculating the difference. It is important to make sure that support comes in a direct way. I no longer advocate the old rural reconstruction idea of long-term, low interest loans, because most farmers have loans up to their eyeballs. The last thing they want is more money lent to them.

They need immediate short-term assistance to see them through the crisis. I am pleased that the limits for interest subsidies have been lifted, as far as I can glean from the news reports. I commend the Prime Minister and the Federal Minister for Primary Industries and Energy for the response at this stage. It is encouraging to see that the Government has promised that incentives will be introduced to encourage farmers to store fodder and conserve water during relatively better seasons, approaching perhaps the utopian plenty. This is one measure that has been removed from the economic circumstances of the farming industry whose urgent reintroduction has been advocated during the past few years.

I do not resile from saying that this is not a day too soon, because there has been a lot of suffering in the country. Circumstances of this kind tend to precipitate. It was obvious from the newspapers two months ago that we were at a stage where rain could have fallen; and if it had, circumstances could have been quite different. I welcome the Federal Government's recognition that some of its dispassionate approach to rural policies over the past 10 years has been ill-founded and ill-conceived. The Federal Government is attempting to change, and I welcome that. I join with other honourable members in congratulating the Minister for Agriculture and Fisheries. Part of the deal with the Commonwealth Government is that Commonwealth funding will be withdrawn from transaction based subsidies. That, of course, includes transport on fodder and transport on livestock to agistment and return.

The State Government has, of its own accord, taken the responsibility to meet this particular circumstance. The Federal and State governments are to be congratulated for the open-ended way they have made funds available. The money is a finite amount, but more has been promised if needed. The previous speaker, the Hon. Dr Marlene Goldsmith, referred to something with which I am familiar: an address published by Julian Cribb. She quoted quite staggering figures that I am familiar with, describing the decline in rural population. The honourable member said that in the past 25 years the number of farming units has declined from 200,000 to a little over 110,000. She spoke about the severe population decline in many rural shires.

I see that as a problem that is separate from the drought and economic catastrophes, such as the wool collapse, the cattle collapse and other catastrophes in the early seventies and so on. We are looking towards a long-term readjustment, which, in rural industries, farmers are prepared to accept. Farmers do not believe they can stand like King Canute and order the waves back. They want assistance so that adjustments can be made in an orderly fashion, and people can order their lives in a way that does not resemble the visitation of a hurricane on their affairs. We are all sympathetic to that concept.

Positive regional development policies are needed to arrest the decline in rural populations. I commend the paper on regional development policy brought down during the Cabinet meeting in Armidale by the Minister for Regional Development, the Hon. Ray Chappell. It is a rational and innovative document, and it is commendable because in this area one is inclined to become entrapped in platitudes and empty promises about what one might do to develop sustainable and viable industries in country areas. I am pleased that the Deputy Leader of the Opposition is in the Chamber, because the House has debated his proposals for a sustained and permanent rebate on payroll tax. Personally I believe that a rebate is not the answer to making developing industries competitive and viable in the long term in country areas.

The Hon. B. H. Vaughan: What is your answer?

The Hon. D. F. MOPPETT: There are a number of initiatives and I could talk about some of them; in the time available it is not possible to be comprehensive. The paper on regional development policy was well researched; it laid down policy and discussed the intrinsic economic potential of various areas. We have to consider the mining industry in Broken Hill, or Cobar, and the natural propensity to grow foodstuffs in the Cowra area and develop them. We also have to consider employment development, because the greatest resource in developing new and successful industries has proved to be people, rather than some economic advantage that comes from a natural resource that occurs in an area. They are two good starting points.

The department has offered to assist groups of small businesses to get together and learn to identify larger markets into which they can project their sales, and how to obtain finance. We have had experience of that in the Coonamble district. Honourable members have heard me refer to the great initiative taken under the guidance of the former Minister for Cooperatives, the Hon. Gerry Peacocke, to establish a joint venture in wool processing in the Coonamble

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district. Once the feasibility study has been carried out, albeit with some government assistance, the big hurdle is to be able to command the finance to establish a plant. At present it is very much a seller's market. When referring to the payroll tax issue it is important to concentrate on government resources to overcome the startup costs of establishing new industries. I am in favour of payroll concessions and other concessions, which are concentrated in a package that may be wound down over five years and perhaps reviewed, if necessary, for some further but limited time.

All government departments should focus on whether their decisions might have an impact on regional development, be it with the placement of regional offices or with the decentralisation of administration. It should be an obligation on all government departments to ensure that, so far as possible, administrative activities are decentralised. Rather than decentralising, meaning choosing an alternative capital, they should be dispersed to suitable localities, of which there are a great number. New South Wales is blessed with being the most decentralised State in Australia.

The Hon. B. H. Vaughan: No, Victoria is.

The Hon. D. F. MOPPETT: Victoria is a pocket handkerchief of a place. It is almost a conurbation rather than a decentralisation. New South Wales has a larger number of more widely dispersed geographical centres than any other State. Tamworth, Dubbo, Wagga Wagga, Albury, Bathurst and Orange and Broken Hill come to mind. The policy the Government has enunciated targets assistance that government can bring to viable industries to ensure they stay in the smaller areas. The Government will use the most precious resource of all, that is, the ingenuity of the local people. I wish to refer to a couple of other matters announced prior to the budget but which have funding in the current budget. One of the most significant issues in western New South Wales is that of law and order. On a number of occasions I have spoken in the House about the development of new policies on juvenile justice. Only recently the eagerly awaited white paper was released. With great pleasure I noted that in large part the recommendations of the Standing Committee on Social Issues were adopted in the white paper. More significantly, from a personal point of view, I am delighted to report that arrangements have been made already to get the community youth conferencing processes under way in the town of Bourke.

Recently we heard of initiatives being taken in Dubbo and Wellington to set up a bail support scheme so that youths - and in many cases Aboriginal youths - are not held in custody simply because of the lack of suitable bail options. This scheme will be significant in turning the tide of juvenile offending in western towns. The juvenile justice white paper contains a number of other initiatives, and they are adequately funded in the budget. A further commendable government initiative announced prior to the budget was the Discovery 2000 initiative, which committed the Government to \$40 million over the next five years in an all-out effort to fully explore the mineral wealth of this State. The identification of mineral wealth is an important initiative as the State's mineral wealth represents a significant part of the economy. I should like to refer at a later date to the important issue of the development of mineral resources.

Debate adjourned on motion by the Hon. D. F. Moppett.

ADJOURNMENT

The Hon. VIRGINIA CHADWICK (Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier) [9.55]: I move:

That this House do now adjourn.

NRMA SHARE FLOAT

The Hon. FRANCA ARENA [9.55]: I wish to bring to the attention of the House my concerns regarding the issue of the demutualisation of the NRMA. The NRMA board of directors by majority, but not unanimously, decided to list the NRMA on the Sydney Stock Exchange in a \$2.2 billion public flotation. This will take place on 12 December. It is crystal clear that the NRMA is trying to con NRMA members into thinking that a yes vote will enable shareholders to make money. The NRMA has spent millions of dollars of NRMA members' money on promoting the yes vote. The board has refused to put forward a no case. If listing the NRMA on the stock exchange is in the best interests of its members, why has the board not provided its members with a no case?

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I ask the honourable member to speak slowly so that Hansard and honourable members can understand. An adjournment debate enables members to put issues to the House, but not in a manner that members cannot understand.

The Hon. FRANCA ARENA: NRMA members have been told in the advertising campaign to cast their votes as soon as they receive their ballot papers in the mail. This is misleading advertising which is still appearing in the ethnic media this week. I have lodged a complaint regarding this with the Trade Practices Commission. Ethnic communities should ensure that they have all the facts at their disposal before casting their votes. Could it possibly be that the NRMA board is trying to dupe NRMA members into voting yes with a \$500 to \$2,000 share offer, which is dependent on the length of membership and whether an NRMA insurance policy is held?

I am concerned that NRMA members may vote for the demutualisation of the NRMA because they have been tricked into thinking that a yes vote will

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make money for them. NRMA members ought not be fooled by expensive, tricky advertising campaigns which appeal to the hip-pocket nerve. It is expected that demand for NRMA shares by insurance and superannuation companies will exceed \$1 billion. Thereafter, NRMA members can expect to pay excessively high insurance premiums. Let us be realistic about this: shareholders, whether they are big business or persons investing some of their hard-earned savings, invest in the stock exchange to make a profit. But the so-called - with qualifications - \$500 to \$2,000 share offer, will not bring the financial rewards the NRMA's tricky advertising campaign is seeking to have NRMA members believe. For instance, if the NRMA is listed on the stock exchange, members will be taxed if they sell their shares.

There is a planned 11.4 per cent increase in insurance premiums over the year. The road service section, the reason that most people join the NRMA, will be wiped out or at least decreased considerably. The directors will be forced to cut, privatise or off-load the road service section. It is an insult to the intelligence of NRMA members for current board members to promise that things will not change. The listing of the NRMA on the stock exchange is a change in itself. Under the conditions of a public company, current board members may not even continue to be directors. Services such as the *Open Road* magazine, the consumer advocacy division, the legal section, the free maps and road advice are under threat from privatisation.

Seventy-four years ago the NRMA was established to provide low cost road service and insurance. The listing of the NRMA on the stock exchange, majority shares being held by big business, and the ending or privatisation of the road service will eliminate low cost road service and insurance. The entire process is of dubious

nature. For instance, the NRMA is counting the votes. I remind the House that some years ago the State Electoral Commission was brought in to count the votes relating to union voting. There is nothing to stop the Government using the State Electoral Commission to count the votes of NRMA members. If the float occurs, voting will be by proxy to determine board members. The voting will not be by secret ballot. This puts pressure on the NRMA staff to vote for their existing superiors and their agendas.

Dissenting NRMA director, Richard Talbot, perceptively points out that the NRMA is already owned by its 1.8 million members. The NRMA is sitting on surplus funds. It is not necessary to have it listed on the stock exchange to be able to return profits to NRMA members. Its strength is in its mutual association of members. I urge members to realise that the yes case advertisements pertaining to share offers are an attempt to dupe them, and are not a form of altruism. I urge NRMA members to keep the cost of road service and insurance down by voting no to the issue of demutualisation of the NRMA.

WORIMI WOMEN'S SACRED SITE

The Hon. R. S. L. JONES [10.00]: I draw to the attention of the House the problem of potential development on a very important women's sacred site at Salamander Bay. Ms Carol Ridgeway-Bissett, a woman from the Worimi tribe, has been lobbying for some time to have her traditional area protected. Port Stephens Council wants to have a 77-lot development on this bushland area bounded by Wanda Avenue, a sportsground, Muller Road and Kemp Street. This area has been a traditional Aboriginal site for many years. I refer to the official journal of the Anthropological Societies of Australia, *Mankind*, of September 1939 and to an article by W. J. Enright BA:

Fourteen or fifteen years ago, Billy Ridgeway saw a figure of a woman near a deep waterhole close to Salamander Bay. That hole is 40 to 50 feet deep. They thought she was a *goingun* (a female spirit) and they decided to go down to burn some fat with a view of attracting her, but when they went down a fortnight later it was found to be absolutely dry. It had never been known to be dry before or since. This is the hole to which women resorted to perform increase ceremonies.

In the *Mankind* magazine in June 1937 there is a similar reference in another article by W. J. Enright, called "Notes on the Aborigines of the North Coast of NSW", under the heading "A Worimi Increase Ceremony":

When any woman of the Worimi tribe residing about Port Stephens, New South Wales, desired to have a child, she would go to a big freshwater hole near Sandy Point; there she would express her wish to have a child, and then completely immerse herself in water. No further rites were performed.

Ms Carol Ridgeway-Bissett and other members of the Worimi tribe have made representations to Robert Tickner, Minister for Aboriginal Affairs, to the council and to the National Parks and Wildlife Service, but have received no satisfaction. I refer to an article prepared by Paul Collis, a representative of the Hunter Region Initiated Men's Council and an active member of the Mindaribba Aboriginal Land Council. He is, by profession, an Aboriginal studies teacher and is currently studying for a Bachelor of Arts degree in communication studies at the University of Newcastle. In this article he spoke about the housing development proposed in the Wanda wetlands at Salamander Bay. He stated:

The area is traditionally a Koori Women's Birthing and Initiation site. It also provided food for these women - it contains over 60 edible and medicinal plants.

This site is one of only three known sacred waterholes in the Hunter region.

It is the home of Worimi women's sex totem - the White Throated Tree Creeper.

It is a sanctuary for other animals including koalas, flying squirrels, bandicoots and a variety of birds. There is also a rookery.

He gave a historical background to the details of the use of the area as a birthing site:

Women traditionally came here to have babies, usually accompanied by an older Koori woman, who acted as a midwife. No men were allowed to go there - ever.

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The site provided safety and shelter; mother and child would stay until they were safe and well enough to travel and rejoin their group.

This area has also, until very recently, been used as an initiation site. At a certain age young women were initiated into adulthood: this involved secret ceremonial rituals performed by the older women who accompanied the young initiates.

One purpose of the initiation was to introduce young women to knowledge and information regarding care for the land and preservation of the site. It was their responsibility to preserve the area and all the flora and fauna it contained. Women were expected to pay continual visits throughout their lives to do two things: care for the area; and pay respect and maintain their spiritual link through Biamee (God), with that secret waterhole.

He and other members of this tribe are most concerned about the housing development, which will destroy the site forever. They are worried about the damage that pollution will cause to the waterhole and about destruction of the natural bushland. The whole area is a wetland, and the proposal is to completely fill the wetlands area with sand. Mr Collis stated that this site is the home of an endangered species, the eastern ring-tailed bandicoot, and is also its natural habitat. He said that if the bandicoots are forced to move they will be gone forever, and that this area remains the last sanctuary for this species in the Hunter region. Mr Collis asks that government, whether the State Government or the Federal Government, protect this area from any development at all, and that the whole area be preserved as it is and as it has been for many thousands of years. It is most important that the Government pay attention to the Worimi tribe, particularly to Carol Ridgeway-Bissett and other tribe members who are trying to preserve that area. It is important for the Government to ensure that this area is not destroyed and is kept as a women's sacred site forever.

Reverend STUART MASON

The Hon. Dr MARLENE GOLDSMITH [10.05]: I rise to bring to the attention of the House a serious injustice that has been brought to my attention by my colleague in another place Mr Ivan Petch, the honourable member for Gladesville. On 5 May in this Chamber the Hon. Jan Burnswoods alleged that the Minister of the Uniting Church in Gladesville, Rev. Stuart Mason, was a member of the Liberal Party, and she used this allegation to attempt to discredit the motives of Rev. Mason. Mr Petch informs me that Rev. Mason is not and never has been a member of the Liberal Party, a statement confirmed by official Liberal Party records. The statement of the Hon. Jan Burnswoods was that "I was . . . worried when I realised that in fact the Reverend Stuart Mason is a member of the Gladesville branch of the Liberal Party". She also attacked Rev. Mason's conscience - an appalling thing to do to a minister of the church, especially without any factual support.

Given that her allegation of party membership was wrong, and that the imputation of improper motives that she drew from that allegation was clearly equally wrong, I hope that the honourable member will have the grace and integrity to withdraw both the allegation and her imputations against a highly respected minister of the Uniting Church. Mr Petch, who cares deeply about issues affecting his constituents, described the attack of the Hon. Jan Burnswoods on Rev. Mason as callous and despicable. Why did the Hon. Jan Burnswoods attack Rev. Mason? She attacked him because he had the courage to speak out about termination of bus outings for the elderly by Gladesville Community Aid. Mr Petch continued:

To suggest that the Reverend Mason's motive on speaking out was political is a damning indictment on all the elderly citizens who have regularly benefited from the bus outings.

Mr Petch was supported in his comments by the local press. I hope that the Hon. Jan Burnswoods will withdraw her comments, engraved as they are on the parliamentary record. I commend Mr Petch for his concern for the

reputation of Rev. Stuart Mason, who deserves to have this allegation withdrawn.

Motion agreed to.

House adjourned at 10.08 p.m.
