

LEGISLATIVE COUNCIL

Tuesday, 22 November 1994

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

The President offered the Prayers.

STATE BANK (PRIVATISATION) BILL

Bill received and read a first time.

Suspension of certain standing orders agreed to.

PETITION

Sexual Offence Damages Bill

Petition praying that the Parliament support the Sexual Offence Damages Bill, received from the **Hon. Elaine Nile**.

DEFAMATION (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [2.38]: I move:

That this bill be now read a second time.

The Defamation (Amendment) Bill will achieve significant reforms in the area of defamation law. I propose to elaborate, first, on the nature of those changes and, second, on the timing of the bill. The first change the bill will introduce is an adjustment of the roles of judge and jury in defamation proceedings. What is proposed is that at an early stage in a defamation action a jury will be required to answer two questions. The first is whether the imputations alleged are conveyed by the published material. The second is whether, if the answer to that question is "yes", the imputations are defamatory. If the jury answers either of those questions "no", the judge will enter judgment for the defendant.

That is what occurs now in defamation cases where a jury is empanelled. It is where the jury answers the threshold questions in the affirmative that the change will take place, and it is this. At present the jury is retained to determine some questions of fact inherent in certain defences. Under this bill that will not occur. Having dealt with the preliminary questions the jury will be discharged from further participation in the trial, which will proceed before the judge alone, he or she determining all defences and, in due course, assessing any

damages. By allocating to the jury what is a vital decision in the trial the arrangement maintains an appropriate degree of community involvement. At the same time, by providing that the trial shall thereafter proceed before the judge alone, a substantial amount of time and money will be saved and the complexities which now arise in the course of a trial because of the current division of functions of judge and jury will be overcome.

These, of course, give rise to problems which generate appeals and, in turn, new trials. In assessing an imputation a jury reflects the view of the community and is a good safeguard in the process of balancing reputation against freedom of speech. Moreover, by enabling the trial judge and not the jury to determine damages, the bill will ensure that damages awards in defamation proceedings correctly reflect the aim of compensating a person for an injured reputation. Honourable members need have no concern that the legislation now before the House will fetter the proper exercise of judicial discretion. On the contrary, the bill envisages that such discretion will be retained. All it requires is that, in assessing non-economic damages, the judge will take into consideration awards made in other types of cases. Such awards are an important factor, but they are by no means the only factor legitimately to exercise a judge's mind.

In performing the task it is not expected that judges will need to tread the tortuous path of detailed analysis of every personal injury verdict. It would be nonsense to expect any exact equivalence. It is anticipated only that judges will draw on their experience and knowledge of the range of possible verdicts in the light of the seriousness of the cases occasioning them. They will then consider the relative seriousness of the case that they are actually deciding and, having taken into account all other relevant factors, will make an award. The second change the bill will effect is to provide for a justification defence of truth alone.

The additional requirement that has operated to date in this State is that the publication should be justified as either being in the public interest or made to a limited audience in furtherance of some legal, social or moral duty. Its rationale has been that it affords to a plaintiff protection against the distress and embarrassment that may be caused by a vindictive or sensation-mongering disclosure of sensitive private facts. However, the common law rule which allows a defence of truth alone already operates in some jurisdictions. In Victoria, South Australia, Western Australia and the Northern Territory, material which exposes a person to hatred, ridicule or contempt or which causes him or her to be shunned or avoided by others may be published without adverse legal consequences provided the statement is true.

In the High Court's recent decisions of *Theophanus* and *Stephens* the majority justices proposed criteria to determine whether the publication of political discussion is to be non-actionable. Their
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Honours set out what a defendant would need to establish to escape liability when false and defamatory material about a plaintiff is published. Their Honours did not, however, deal with the question of liability when a defamatory but true statement is made in the course of political discussion. In this State, as I have already indicated, the present law requires that the defendant establish both truth and public interest to avoid liability. It is, however, a corollary of the majority's approach that the restraint of the latter element is likely to be viewed as a restriction on the freedom of political discussion and, provided a statement is true, it will not be actionable.

It is therefore appropriate to take this opportunity to put the matter beyond doubt. For too long the courts have dictated the agenda concerning the freedom of communication. On this occasion the bill provides an opportunity for Parliament to take the initiative. In a society that demands and should expect free and open participation in political discussion, respect for the truth must prevail. It should not be the role of the defamation law to provide protection against the invasion of a person's home life, personal and family relationships, health or private behaviour. Nor should the law of defamation protect undeserved reputations. In *Rofe v Smiths Newspapers Limited* (1925) 25 SR NSW 4, His Honour Acting Chief Justice Street said at pages 21 to 22:

No wrong is done by telling the truth . . . By telling the truth . . . reputation is not lowered beyond its proper level, but is merely brought down to it.

Thus, the law will become simpler, easier and clearer to apply and the truth of the matter will be the only issue

to consider when journalists, editors and lawyers are considering publication. The change will not protect truthful but misleading statements. Take for example a hypothetical prominent headline and picture encapsulated "Member of Parliament in court - child pornography case". Assume also that the member in question was not involved in any criminal activity but had been called as a prosecution witness to pass on certain information that had been conveyed to him or her. The headline would be literally true, but the imputation it conveyed would not, and the defence of truth would not be available to protect against the wrongful imputation.

That brings me to the timing of the bill. The suggestion might be made that defamation law reforms at this juncture are inappropriate and that the Government ought not to pre-empt the recommendations of the Law Reform Commission and its work on the broad reference given to it in this area of the law. As honourable members will recall, the Government introduced the Defamation Bill 1991, which was referred by the former Attorney General to a legislation committee of the Legislative Assembly, comprising members from both sides of the Parliament and the crossbenches, to enable a public evaluation of its provisions. In May 1992, after that bill had been reintroduced, and re-referred, that committee issued a discussion paper canvassing the principal issues raised in submissions made to it, and its final report was tabled in the Legislative Assembly on 14 October 1992.

The approach taken by the committee was to focus not on the attainment of a uniform scheme, which had been a major impetus for the 1991 bill, but on achieving a thorough reform of defamation law in this State. Uniformity was still acknowledged to be a desirable aim but that object was not regarded as being the principal goal. As a result, the committee made a number of departures from the approach taken in that bill. It was the legislation committee that recommended that I refer the Defamation Bill 1992 and the committee's report to the New South Wales Law Reform Commission for a comprehensive review of the bill's provisions. Significantly, the committee also recommended that the commission undertake an empirical study of defamation matters, with the object of ensuring that reform proceeds from a factual rather than an anecdotal basis.

In the light of the committee's recommendations, the Chairman of the Law Reform Commission was given a reference on 4 November 1992. That reference for inquiry and report related to the law of defamation in New South Wales and in particular: the relative roles of the judge and jury; standards, defences, onus and procedure; the determination of damages; non-monetary remedies, including court-ordered correction statements; alternative or additional techniques of dispute resolution; the need for the provision of a separate tort of privacy; the need for the provision of shield laws to protect journalists' sources; and any related matter.

The chairman was advised that the commission should provide drafting instructions for amendment of the bill and, in doing so, take into consideration such empirical data relating to defamation matters as may be available and to have particular regard to the proposals of the Standing Committee of Attorneys-General for uniformity of defamation laws in Australia and the discussion paper and the report of the legislation committee on the defamation bill. The commission formed a separate division with responsibility for the project. Two part-time commissioners, Mr Justice Hunt and Professor Chesterman, Dean of the Law School, University of New South Wales, were appointed because of their specialised experience in the subject matter. The commission published a comprehensive discussion paper in August 1993. It sought submissions by the end of October 1993, and a number of extensions of time for the making of submissions were sought and granted.

The commission is now finalising its report, which will, of course, incorporate its views on significant recent case law, notably the Theophanus decision. The strength of the Law Reform Commission lies in its independence. That independence prevents the Government from dictating compliance with a timetable that would compromise the commission's work towards achieving a consultative basis for comprehensive defamation law reform. It is in that context that the present bill has been framed. The bill accommodates essential reforms to defamation law while anticipating to some extent what the commission may recommend.

Any

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wider reforms and the resolution of numerous contentious issues in this area of the law should properly await the findings of the Law Reform Commission. Honourable members should appreciate that the present bill

merely represents an important interim step in achieving the Government's goal of effective defamation law reform.

On the information that is available to date, I believe that the reforms go some way to meeting the concerns that have been canvassed by both the legislation committee and in the commission's discussion paper. Uniformity in the area of defamation law reform will depend on the willingness of other jurisdictions to embrace reforms eventually put forward in this State on the basis of a recent, thorough and consultative examination of this area of the law. That willingness would doubtless be enhanced if any legislation that was put forward as a model was the result of a considered and comprehensive review. That will be the object of the next stage of defamation law reform in this State. In the meantime, I commend the bill to the House.

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

SENTENCING LEGISLATION (AMENDMENT) BILL

In Committee

Resumed from 18 November.

Schedule 1

The Hon. ELISABETH KIRKBY [2.50], by leave: I move the following amendments in globo:

- No. 1 Page 7, Schedule 1, proposed section 22H, lines 26 and 27. Omit "receiving and".
- No. 2 Page 7, Schedule 1, proposed section 22H, lines 34-36. Omit "and to have a reasonable opportunity to make relevant submissions at the hearing".
- No. 3 Pages 7 and 8, Schedule 1, proposed section 22H, line 39 on page 7 to line 4 on page 8. Omit "and to have a reasonable opportunity to make any relevant submissions at the hearing".
- No. 4 Page 8, Schedule 1, proposed section 22H, lines 5-7. Omit all words on those lines, insert instead:

(5) Submissions must be made in writing and in advance of the hearing. The victim and prisoner are entitled to reasonable access to the submissions in advance of the hearing.

The first three amendments effect omissions in order to allow the fourth amendment. Victim impact statements will relate to an event that took place in the far distant past. I refer honourable members to the comments I made during my contribution to the second reading debate about the prisoner Lewthwaite, who had served 18 years of a 20-year sentence. I said that if the victims or relatives of the victims are to make submissions to the Serious Offenders Review Board about the release of Lewthwaite, it is only natural justice that the prisoner should have the opportunity to have in writing the reasons for the victim's relatives opposing his release.

The fourth amendment will enable the prisoner to discuss the submission with his legal adviser and to work out his answer to the victim impact statement. This is a simple amendment. A prisoner attending a hearing without knowledge of the content of a victim impact statement will be at a great disadvantage. As I said in my contribution to the second reading debate, it is possible for allegations to be made about a prisoner who is seeking reclassification or release on parole which, on investigation, can be proved to be false. That occurred in the case of John David Lewthwaite, which I drew to the attention of honourable members and particularly to the attention of the Attorney General. I quoted from the report of the Offenders Review Board investigation into John David Lewthwaite.

That investigation proved categorically that the allegations made by the member for Smithfield were

untrue and had no substance. If that investigation had not been carried out, it is possible that Mr Lewthwaite could have been denied his C3 classification and the opportunity to participate in work release and been kept in maximum security. As it was, when I had stated to the House that Mr Lewthwaite had been held in segregation for two months, the Attorney General pointed out in reply that my statement was incorrect. I have now been able to prove, I think to the satisfaction of the Attorney General, that my statement was not incorrect.

As a result, Mr Lewthwaite has received his C3 classification, but he had to undergo an extremely depressing experience of being in segregation for two months while the investigation was carried out. That could have been avoided if the prisoners had been provided in advance of the hearing with a document showing what the victims intended to put forward against his or her reclassification or application for release on parole. The fourth amendment is important, and I hope honourable members will support it.

The Hon. R. D. DYER [2.56]: The Hon. Elisabeth Kirkby has correctly indicated that the key amendment of the four Democrat amendments is No. 4. I draw attention to proposed section 22H(5), which provides in substance that submissions can be made either in writing, orally or both, to the Parole Board. If the submissions are in writing, they may be presented to the board in advance of the hearing or at the hearing. The proposal of the Australian Democrats is that submissions must be made in writing and in advance of the hearing. It is further provided in the Democrat amendment that the victims and prisoner are entitled to reasonable access to the submissions in advance of the hearing.

The Hon. Elisabeth Kirkby has advanced a natural justice argument in support of her amendment. The Opposition feels that it is essential to the purpose of the bill that the rights of victims are to be enhanced and that an essential element of the proposal or reform encompassed in the bill is that victims are to have the alternative right to make their submissions either orally or in writing. The Opposition believes it

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severely cuts down the provisions in the bill in regard to the rights of victims if they are to be restricted to making written submissions. The approval given by the caucus of my party was to support the bill. The official Opposition regards the amendment as departing seriously from the thrust of the bill to restrict the submissions of victims to written submissions only.

Referring to the natural justice argument, one should remember that oral allegations are often made at the trial of offenders during the course of the giving of evidence. It is a matter for the defence at that time to meet those submissions. A more important aspect is that the Parole Board, as it will be known, will be presided over by retired but experienced District Court judges. Three such judges, at various times, will preside over meetings of the proposed Parole Board. I have every confidence that those judges are used to and capable of deciding what material is relevant and what should be excluded, and that they will continue to protect the rights of prisoners appearing before them. For those short reasons, the Opposition is unable to support the amendment. We feel that it departs seriously from the thrust of the legislation if there is to be a restriction of the submissions of victims to written submissions only in advance of the proceedings before the Parole Board.

Reverend the Hon. F. J. NILE [3.00]: The Call to Australia group supports the arguments presented by the Hon. R. D. Dyer with regard to the amendments moved by the Australian Democrats. As I said during the second reading debate, the purpose of the legislation is to readjust the position when an injustice has been done to the victims of crimes, the relations of the victims of crime, and so on. The legislation will rectify that. The amendments would undermine the purpose of the legislation by restricting submissions to written form and to presentation in advance to the hearing. The amendments may also discriminate against persons who have difficulty expressing their thoughts in writing and who would prefer to present their views orally to the Parole Board. For that reason, we cannot support the amendment.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [3.02]: I will deal with amendments Nos 1 to 4 and amendments Nos 5 to 9 because, by and large, they are similar, although they relate to two separate sections and therefore must be dealt with separately by the Committee. My arguments apply equally to both groups of amendments, and I ask the Committee to take them into consideration with regard to both groups. The primary objective of the legislation

is to introduce an informal, non-adversarial and, therefore, non-threatening system that will allow victims of serious crimes to make submissions to those statutory bodies that are required to make decisions or recommendations which can lead to serious offenders being allowed out of prison and into the community, either on parole or on various forms of temporary leave, while retaining the restrictions imposed on prisoners.

The Government firmly believes that proceedings before the Parole Board should be informal, non-adversarial and non-threatening to those victims of serious crimes who might wish to make verbal submissions to the board. The Government is of the view that making all proceedings before the board formal and legalistic will not assist the board in its primary function, which is to gather and consider any relevant information that may help it to reach a conclusion as to whether a serious offender should be granted parole.

The effect of the honourable member's proposed amendments would be to remove the right of victims to make verbal submissions to the board by requiring all submissions to be made in writing. The amendments would also provide that in certain circumstances, such as when there is a dispute as to the material contained in a victim's written submissions, the victim will be required to be present at the hearing of the board and may be required to give evidence in accordance with the law of evidence. These proposals could result in considerable trauma and pressure being brought to bear on victims who do not want to appear before the board, come face to face with the offender, or go through the ordeal of cross-examination on the material contained in their submissions.

The Hon. Elisabeth Kirkby's amendments would significantly alter the whole nature of what the Government is trying to achieve. The amendments will turn an intended informal, non-adversarial procedure into something akin to a court process with all the attendant pressures and traumas for the victim. To quote the words of the Hon. R. D. Dyer in the second reading debate, we would be sending it back to a second trial. We are talking about offenders who have committed serious crimes. The victims already have been through enough at the committal and trial stages, and the Government does not want to put them through any further ordeal. In developing the legislation, the Government wanted to implement a simple procedure that would afford victims of serious crimes an opportunity to make submissions to the Parole Board and the Serious Offenders Review Council in a non-adversarial and non-legalistic environment. These proposals would overturn that objective, and for those reasons the amendments are not supported by the Government.

The Hon. ELISABETH KIRKBY [3.05]: I am astounded by the attitude taken by both the Government and the Opposition on this matter. I can only judge the matter on the facts. I have a swag of documentation from judges, dismissing victim impact statements in the Court of Criminal Appeal. In some of the documents, the judges said that they believed that the statements were totally unfounded. I have the greatest sympathy with victims - I do not want honourable members to get the wrong impression about that. Earlier, I mentioned the case of Mr Lewthwaite, who was sentenced to a long term of imprisonment. Surely, if we had had proper counselling and support for victims, the initial trauma although not the pain and tragedy would have vanished after 20 years.

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Inmates who committed horrific crimes possibly 20 years ago or earlier, have not, under our law, been locked up for the rest of their natural lives. They must be allowed to re-enter society at some stage. If their ability to be released on parole or to be reclassified to C3 and to day release is impeded by a victims impact statement which they cannot see in advance or question, that seems to be an absolute denial of their rights. I am not denying the rights of the victim, but 20 years - or, in some cases, 25 years - have passed. Surely, the offenders will have served the sentences imposed on them by the law, and they will then have the right at least to have the ability to be paroled or released.

If the bill stands, offenders will be denied the right to know why the victim does not want them to have that opportunity. They will be denied the opportunity to discuss the victims impact statement with their legal advisers. I simply cannot understand the logic of the Opposition's position, although I believe that the Hon. R. D. Dyer is bound by a caucus decision. I cannot understand why the Government is prepared to allow unsworn

victims impact statements, especially as we had legislation only a few weeks ago in which the Government was determined to abolish unsworn dock statements. That seems to be a gross contradiction. I realise that I do not have the numbers to get the amendment accepted but my remarks should appear in the record.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [3.09]: For the record, I shall clarify the issues that have been raised in relation to the preparation of victim impact statements under the Crimes Act as a result of new section 447C. As I said during the second reading debate, I will gazette regulations which make it clear that the statements will be in writing and will be prepared by counsellors, psychologists and psychiatrists. The appropriate professional people will be involved. It will be a significant step forward because the concerns raised by the Hon. Elisabeth Kirkby that victims should have access to counselling services which until now they have been denied, will be addressed.

The cathartic impact of submitting a victim impact statement will be significant for victims but, having gone through that catharsis, the interest of the victims in following events surrounding the offenders and, therefore, the need or desire to appear before the Serious Offenders Review Council or the Parole Board, will be significantly diminished. I suspect that the extent to which anybody makes use of these provisions will be minimal, but they will be available. The legislation will ensure procedural fairness in hearings before the SORC or the Parole Board which are, as the Hon. R. D. Dyer indicated, chaired by retired judges.

The legislation will enable people to put submissions before the board. These will not be repeated victim impact statements but will be submissions about the management of the prisoner. The submissions would be less extensive than victim impact statements and would put forward material which is relevant to whether the prisoner should be reclassified or released. No doubt some victims will want to relive the victim impact statement and the trial, but the council and the board will countenance only that which is relevant and that which deals with the procedures accordingly. Procedural unfairness should not be of concern to the honourable member.

Checks and balances have been put in place to address the comments made by judges in the various court of appeal decisions. Judges have made it clear that people who appear for themselves and who express personal feelings do not add a lot to the evidence before the courts. I seek to address that through the legislation. The honourable member referred to the Lewthwaite comments made at the second reading stage. As a result of information given to me I made further inquiries and the result should be placed on record. What I said to the House on 18 November is accurate: Mr Lewthwaite was held in protection for the period to which the honourable member adverted. Mr Lewthwaite sought protection. Because he was in the reception prison, where there is only one facility to put a person in protection, he was, unfortunately, placed in the segregation wing.

Though the honourable member referred to segregation, I would not want any member to think that Mr Lewthwaite was treated as a segregated prisoner within. He was not. The rules of segregation did not apply. He was separated from other prisoners by being placed in the segregation area, but this was done at his request, for his protection. I do not want any member to think that Mr Lewthwaite was unfairly treated. I commend the bill to the Committee without amendments.

Amendments negatived.

The Hon. ELISABETH KIRKBY [3.14]: I no longer proceed with my amendment No. 5 because it is consequential on amendment No. 4.

The Hon. ELISABETH KIRKBY [3.14], by leave: I move the following amendments in globo:

No. 6 Page 8, Schedule 1, proposed section 221, lines 29-31. Omit "and to have a reasonable opportunity to make relevant submissions at the hearing".

No. 7 Page 9, Schedule 1, proposed section 221, lines 11 and 12. Omit "and to have a reasonable

opportunity to make any relevant submissions at the hearing".

No. 8 Page 9, Schedule 1, proposed section 22I, lines 13-15. Omit all words on those lines, insert instead:

(7) Submissions must be made in writing and in advance of the hearing. The victim and prisoner are entitled to reasonable access to the submissions in advance of the hearing.

We have already had considerable debate on this principle. The Opposition has made its views clear, as has the Government. It is obvious that I shall not get support for the amendments. I am a little heartened by the reply from the Attorney General about proclaiming victim impact statements and the regulations that he intends to introduce. I shall study

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them carefully when they are available to ensure that my concerns about natural justice will be addressed by those regulations.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [3.16]: For the reasons outlined in response to proposed amendments Nos 1 to 4, the Government opposes the amendments.

The Hon. R. D. DYER [3.16]: The Opposition adheres to the arguments advanced in regard to the previous bracket of amendments in also opposing the amendments before the Committee. I do not think it is necessary to restate those arguments. The Attorney General, in addressing the previous bracket of amendments, referred to remarks I made during the second reading. I know it is invidious to quote oneself, but I shall risk that and repeat a short passage of what I said so that it is clear:

Some will advocate an advocacy-style proceeding, almost another trial, where victims are legally represented and may cross-examine witnesses. Some caution should be counselled in this regard. Such matters might be better assessed after 12 months of practical experience of the reforms encompassed within this proposed legislation.

Although I was addressing those remarks to a sophisticated or formal-style hearing in regard to the rights of the victim, by extension the same comments should be made regarding the rights of the prisoner. If we go down that track we will have a very formal proceeding. I do not think that is the intention. I am inclined to think that it is unnecessary, at least at this stage. The Opposition also opposes this group of amendments.

Amendments negated.

The Hon. ELISABETH KIRKBY [3.18]: I move:

No. 9 Page 9, Schedule 1, proposed section 22J. After line 37, insert:

(3) That decision must be deferred if a hearing is to be conducted in accordance with subsection (4).

(4) The Board must set a date on which the Board will hold a meeting if the Board is of the opinion that there is a dispute as to any matter of fact, as shown in the submissions considered at a meeting held under section 22H or 22I, that warrants the holding of a further meeting.

(5) On setting a date for a meeting under subsection (4), the Board is required to give notice, at least 14 days before the date of the meeting, to the victim and prisoner indicating that the victim and prisoner are required to be present at the meeting and may be required to give evidence as to the matter in dispute.

(6) A Public Defender (within the meaning of the Public Defenders Act 1969) may appear for a prisoner, to whom legal aid was granted for proceedings for the offence concerned, at a meeting under subsection (4) and may, when appearing for the person, be instructed by a solicitor who is an officer of the

Legal Aid Commission or by another solicitor.

(7) The Board is to observe the rules of law governing the admission of evidence in the conduct of any such meeting.

(8) At such a meeting, the Board is to decide whether or not the prisoner should be released on parole.

Proposed section 22J(2) of the bill, at lines 35 and 36, deals with the decision of the board following review. Proposed section 22J(1) provides that at meetings to be held under section 22H or 22I the board is required, after reviewing all the reports, documents, submissions and other information, to decide whether or not a prisoner should or should not be released on parole, or whether the board believes it is proper to defer that decision. Section 22J(2) provides that that decision may be deferred once only, and may not be deferred for more than two months. A prisoner may reapply after a two-month period has elapsed.

The purport of my proposed amendment is that the decision must be deferred if the hearing is to be conducted under subsection (4), which earlier I failed to have changed by amendment. My amendment also provides that the board would have to set a date when it would hold such a meeting and would be required to give at least 14 days notice both to the victim and to the prisoner. My amendment also provides that the Public Defender, within the meaning of the Public Defenders Act, may appear for a prisoner to whom legal aid was granted for proceedings for the offence concerned; that when appearing for that person the Public Defender could be instructed by a solicitor who is an officer of the Legal Aid Commission or by another solicitor, and that the board is to observe the rules of law governing admission of evidence at any such meeting at which the board is to decide whether or not the prisoner should be released on parole.

It is extremely important that prisoners serving very long sentences for serious crimes should be allowed legal representation before the review board in order to protect their interests. To give prisoners further protection I have included in my amendments the provision that the Public Defender's office might appear for prisoners. That is the right course in very serious cases which attract long terms of imprisonment. Luckily, there are not large numbers of prisoners in gaol with long sentences. The proposed measure would assist prisoners who have tried hard to rehabilitate themselves. I would like the Government and the Opposition to think about those arguments, though I have already been informed both by the Leader of the Government in this House and by the Hon. R. D. Dyer, on behalf of the Opposition, that they cannot support the amendment.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [3.23]: The Government does not support the amendments, for a number of reasons. Effectively, proposed subsection (8) is a substitution for existing subsection (3), which enables a decision to be made by the board that must be made in accordance with section 22L. In effect, section 22L provides a code for the making of these orders. The drafting of paragraph (8) could be corrected but that might lead to confusion. But these are only minor reasons I would not agree to the amendments. Proposed subparagraph (7), which effectively would apply the rules of evidence to proceedings, gives me a significant reason not to agree to the amendments. The board is able to determine its own procedure for

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the conduct of its proceedings. The proposed amendments would introduce legalisms that would lead to a hearing of protagonists rather than the informal procedure we want to achieve.

The same problem arises with proposed paragraphs (3), (4) and (5). In effect, they would lead to the formalisms and legalisms we are seeking to avoid in this procedure. I do not oppose paragraph (6) at this time, for dual reasons. First, at the present time all prisoners appearing before these boards and councils are entitled to legal aid from the prisoners legal service division of the Legal Aid Commission. All prisoners receive the benefit of the services of the Legal Aid Commission. Prisoners who do not avail themselves of those services will no doubt do so because they wish to retain their own legal advisers. As part of that program, the Legal Aid Commission is able to retain a barrister to appear before the board. That service is extremely effective, has developed an outstanding reputation, and is highly regarded by those in the justice system who have spoken to me during my travels. The same could be said of those briefed by the Legal Aid Commission, when a briefing

is required. That is not to say that in future the services of the Public Defender ought not to be expanded to cover this area.

Recently the Public Accounts Committee undertook a complete review of the Public Defender's office and recommended complete reform of its operation. Currently I am consulting with the Public Defender's office on new legislation to completely govern the administration of the Public Defender's office. We are on the point of reaching agreement with that office on its new charter. This issue may be one that ought to be included in that charter. To have it as a separate provision in this legislation would be inappropriate. If the purpose of the amendment is to ensure that legal assistance is available, I assure the honourable member that legal aid already is available through the Legal Aid Commission and there is no intention of ever removing that assistance.

If the purpose of the amendment is merely to expand the role of the Public Defender, this measure is not the place where that change should be made. It should be made while I am reviewing completely the Public Defenders Act. I can undertake to the honourable member that I will draw this provision to the attention of the Public Defender. To my knowledge it is not an issue that the Public Defender has advocated for reform. If the Public Defender takes the view that it is appropriate that it should be part of his charter, I would have no difficulty incorporating it into the reform of the Public Defenders Act.

The Hon. R. D. DYER [3.28]: The Opposition also is unable to support amendment No. 9 moved by the Hon. Elisabeth Kirkby. I listened with care to what the Attorney General has just said. I am heartened by his remarks on the availability to prisoners of legal assistance from the Legal Aid Commission. I am concerned in particular by subclause (7), which provides that the board is to observe the rules of law governing the admission of evidence in the conduct of any such meeting. As the Attorney General has said, that may lead to formality and legalism, which we are trying to avoid in proceedings by and before the Parole Board. For those short reasons, the Opposition does not support the amendment.

The Hon. ELISABETH KIRKBY [3.29]: The Attorney outlined the circumstances under which a prisoner was entitled to legal representation when appearing before the Serious Offenders Review Board, the Parole Board, or the Serious Offenders Review Council as it is now called. From the correspondence I receive from inmates in corrective institutions - much of which is passed on to the Attorney General's office - it is obvious that many of them are unaware of this provision. I seek an assurance that information about legal representation by the Public Defender or other legal officer is included in a charter of prisoners' rights, if such a document exists, or is at least made known to a prisoner at the time he or she is to appear before the board. When prisoners feel they are without any advocacy it adds to their trauma. I accept the Attorney's assurance on this matter and request that action be taken to ensure that prisoners who have to appear before the board are made aware of their right to legal aid.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [3.31]: I apologise if I have left the Committee with the impression that the functions of the Serious Offenders Review Council are exactly the same as those of the board. Those bodies operate differently. My comments were directed to the operations of the board. When prisoners are admitted to an institution a handbook is provided which sets out all matters for the information of prisoners. Inmates are well informed of the availability of the prisoners' legal service. However, I acknowledge that 50 per cent of prisoners cannot read and, therefore, one relies on word of mouth. I assure the Hon. Elisabeth Kirkby, from my travels to the prisons, that the prison network is very adept at providing information about available services and assistance. If honourable members want to familiarise themselves with the handbook, I am happy to make it available.

Amendment negatived.

Schedule agreed to.

Schedule 2

The Hon. ELISABETH KIRKBY [3.33], by leave: I move the following amendments in globo:

No. 10 Page 19, Schedule 2, proposed section 62A. After line 32, insert:

(4) If a submission is lodged by the victim within that 14-day period, the Review Council must give notice of that fact to the offender and indicate in the notice that the offender may lodge submissions with the Review Council within a specified period of 14 days.

No. 11 Page 19, Schedule 2, proposed section 62A, line 35. Omit "that period", insert instead "the relevant 14-day period".

The amendments are self-explanatory. I am delighted that the Government supports the amendments, and I commend them to the Committee.

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The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [3.34]: The Government agrees to proposed amendments Nos 10 and 11. They have the effect of requiring the Serious Offenders Review Council to notify the serious offender under consideration that a submission has been received from the victim in relation to the offender and to indicate that the offender may also lodge a written submission with the council within a specified 14-day period. These amendments will not alter the procedures or processes of the council as to the manner in which it conducts its deliberations, but will merely formalise a procedure. The Government does not oppose these proposed amendments.

The Hon. R. D. DYER [3.35]: The Hon. J. W. Shaw and I indicated to the Government's advisers, who kindly briefed us about this legislation with the consent of the Attorney General, that these amendments should be supported. I am glad the Government has accepted them.

Amendments agreed to.

The Hon. ELISABETH KIRKBY [3.35]: I move:

No. 12 Page 19, Schedule 2, proposed section 62A. After line 36, insert:

(6) A decision to make a recommendation must be deferred if a meeting is to be conducted in accordance with subsection (7).

(7) The Review Council must set a date on which the Review Council will hold a meeting if the Review Council is of the opinion that there is a dispute as to any matter of fact, as shown in the submissions considered under subsection (5), that warrants the holding of such a meeting.

(8) On setting a date for a meeting under subsection (7), the Review Council is required to give notice, at least 14 days before the date of the meeting, to the victim and offender indicating that the victim and offender are required to be present at the hearing and may be required to give evidence as to the matter in dispute.

(9) A Public Defender (within the meaning of the Public Defenders Act 1969) may appear for a prisoner, to whom legal aid was granted for the proceedings for the offence concerned, at a meeting under subsection (7) and may, when appearing for the person, be instructed by a solicitor who is an officer of the Legal Aid Commission or by another solicitor.

(10) The Review Council is to observe the rules of law governing the admission of evidence in the conduct of any such meeting.

This amendment goes to the nub of my concern. Proposed section 62A relates to victim submissions involving serious offenders. The number of serious offenders, particularly in crimes involving victims, constitutes a small proportion of prison inmates. Many of their offences are very serious and warrant the long sentences which are now being imposed by the courts. The prospect of shortening the period in gaol by getting remissions for good behaviour has vanished under this Government's truth in sentencing legislation. The

Serious Offenders Review Council must have discretion to hold meetings and to allow prisoners legal representation by public defenders or other legal advisers.

I ask that the Attorney General clearly state that legal aid may be available to the prisoner under these circumstances if the prisoner is required to attend a review hearing set up by the Serious Offenders Review Council. As the Attorney General said earlier, there is no point in pressing this amendment more strenuously, as proposed legislation and foreshadowed amendments to other legislation will alleviate many of my concerns. I should like it clearly stated that the proposals referred to earlier by the Attorney General will apply to offenders appearing before the Parole Board and the Serious Offenders Review Council.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [3.40]: The Hon. Elisabeth Kirkby has confused the role of the Serious Offenders Review Council. The Serious Offenders Review Council, a management board, oversees the management of prisoners through the prison system. In the main, the Serious Offenders Review Council is responsible for classifying prisoners with a view to determining where they should be housed or how they should be managed within the system. This amendment effectively proposes to replicate the role of the Serious Offenders Review Council and the board. I do not think that is what the Hon. Elisabeth Kirkby intends to do. As a management board the Serious Offenders Review Council does not operate in a legalistic way. The direction being advocated by the Hon. Elisabeth Kirkby is neither necessary nor appropriate for the Serious Offenders Review Council.

As I have said, the Serious Offenders Review Council is responsible for the management of serious offenders. It makes recommendations to the commissioner concerning the classifications of prisoners. The council needs to establish the history of each offender in order to understand where a prisoner is coming from and how he or she is progressing through the prison's work, training and education programs. A prisoner will be interviewed on numerous occasions while he or she is in prison. The members of the Serious Offenders Review Council constantly visit prisons and interview prisoners in order to develop a knowledge of their history.

Every year the council deals with a large number of reports on each offender, all of which are used to assist it in determining management and rehabilitation programs. A legalistic, formalised or adversarial hearing system would completely undermine the work of the council. Victims are able to make a submission to council merely to ensure that it understands where prisoners are coming from. That is particularly important if, for some reason, a prisoner has been writing threatening letters to a victim or to the family of a victim. A victim should be given an opportunity to say, "This is the information that I have been getting". This amendment would provide for a significantly different structure; it would cause disruption; it would significantly strain legal aid resources; and it would be totally inappropriate for victims and the Serious Offenders Review Council. For that reason the Government cannot accept this amendment.

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The Hon. ELISABETH KIRKBY [3.43]: After hearing the explanation of the Attorney General I am more concerned than I was before the amendment was drafted. Proposed new section 62A(1) is in the following terms:

This section applies to a recommendation of the Review Council to the Commissioner for a change in the security classification of a serious offender, where the change, if approved by the Commissioner, would make the offender eligible for consideration for leave of absence from prison under section 29.

Proposed section 62A(2) reads:

The Review Council cannot make such a recommendation unless it has given notice, in accordance with the regulations, that it proposes to give an opportunity for submissions to be made by victims about the offender.

The Attorney General said that the Serious Offenders Review Council is monitoring every prisoner as he or she

goes through the system and undertakes training or undergoes psychiatric treatment that is offered within the system. When a prisoner comes up for reclassification the victim, who will be consulted, will have an opportunity to make a submission. This means that a victim will have an impact on the decisions taken by the Serious Offenders Review Council in respect of information it receives from psychiatrists, psychologists, educationists and medical experts. The Serious Offenders Review Council will have an ongoing role in the management of prisoners. That is amazing!

I am not unsympathetic to victims, but a person who has committed a crime, however heinous, and who has been convicted and had a penalty imposed by the court is looked after in the very best way within the system and would have availed himself or herself of the opportunities afforded by the system. That prisoner could be imperilled because of a statement which the Attorney General has already agreed could be made orally. The statement, which need not meet the onus of criminal proof, can simply be submitted to the Serious Offenders Review Council. Victim impact statements will be taken into consideration in the management of prisoners. Frankly, I am surprised that the Government has introduced such a provision.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [3.46]: The Hon. Elisabeth Kirkby is of the impression that victim impact statements will be the way in which information is put before the Serious Offenders Review Council. That is not so. As the Hon. Elisabeth Kirkby said, proposed section 62A will apply to a prisoner eligible for consideration for leave of absence from prison, such as work release or day leave. It would apply to a person about to come out of prison and re-enter the community. Notifications will operate in accordance with the regulations. The Hon. Elisabeth Kirkby would be aware that, under the new charter of victims' rights, victims will now be given an opportunity to indicate whether or not they wish to be informed of changes in the activities of a prisoner.

Very few people have availed themselves of that opportunity. I expect very few will. Those persons, who will be informed when a prisoner is about to come out of prison, will then seek to make a submission. As proposed new section 62A(4) states, "Submissions can be in writing only". This provision, which will operate in an informal way, will ensure that victims are informed and are able to express a view. Prisoners will then be told that victims have been given this information. The Serious Offenders Review Council will then determine whether or not a prisoner is eligible for day release with a view to returning to normal community life.

The Hon. R. D. DYER [3.48]: I listened carefully to what the Attorney General and the Hon. Elisabeth Kirkby said in regard to this amendment. I am satisfied by the explanation given by the Attorney General. The Opposition is not able to support this amendment.

The Hon. ELISABETH KIRKBY [3.48]: I thank the Attorney General for his lengthy explanation. A prisoner with a serious psychotic condition, who might have been a danger to the community and who received a sentence of 20 or 25 years, should be given an opportunity to return to the community. Inevitably, at some stage such a prisoner would have to be classified to enable him to take day leave. A person who has been incarcerated for 20 or 25 years would not be able to return to the community without rehabilitation, in the form of day leave or periodic detention. It would be deplorable to me if members of the public, particularly victims - however great their trauma might have been - believed that through the use of victims impact statements the perpetrator of the crime and the cause of the trauma could be locked up indefinitely, without any prospect of benefiting from day leave. Anybody dealing with recidivism or serious offenders might also consider that to be deplorable. There has to be the opportunity for true rehabilitation.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [3.50]: I do not disagree with the final comment made by the Hon. Elisabeth Kirkby. I agree that there has to be an opportunity for true rehabilitation. The view of the victim will always be only one of a large number of issues to be taken into account.

Amendment negatived.

Schedule as amended agreed to.

Bill reported from Committee with amendments, and report adopted.

STATE BANK (PRIVATISATION) BILL

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [3.55]: I move:

That this bill be now read a second time.

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

Leave not granted.

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This is an historic bill that authorises the sale of the State Bank of New South Wales to Colonial Mutual Life Limited on the terms and conditions set out in the share sale agreement. When the forerunner to the State Bank, the New South Wales Savings Bank, was formed in 1819 there was seen to be a genuine need for some form of government involvement in the ownership of the banking sector to provide banking services to middle- and low-income groups. In 1994 there is, and indeed for the past few decades there has been, no worthy rationale for continuing government ownership of the State Bank. The Government's decision to get out of banking is part of a worldwide trend in which 93 government banks have been placed on the market in more than 37 countries over the past 10 years. That is a rate of one every six weeks.

In Australia, all government-owned banks have been, or are in the process of being, privatised - by both Liberal and Labor governments. There is no argument for continued government ownership in the current competitive marketplace. There are established, sound prudential regulations in place and government-owned banks now have purely commercial charters. Indeed, the charter of the State Bank has been purely commercial since 1981. If there is any specific government program or service the New South Wales Government requires of a bank, it can call tenders from all banks: it does not require bank ownership. Yet New South Wales still owns the State Bank, and for that the taxpayers carry a liability of nearly \$19 billion - or \$3,000 for every man, woman and child in this State.

For various historical reasons, all related to government ownership, the bank has never provided the taxpayer with a commercial rate of return on its assets. But that is not the reason for selling. We accept that one day, given the restructuring that has taken place, the slashing of operating costs and the reduction of employee numbers, the State Bank may well lift its pre-tax profitability to a more commercial level. But it will never be in a position to provide both a commercial rate of return and compensate New South Wales taxpayers for the financial obligation of the government guarantee on all liabilities of the bank.

Private sector bank owners and shareholders carry no such obligation, as they do not guarantee the full liabilities of their banks. Based on information from Australian Ratings and in accord with the New South Wales Treasury guarantee fee policy, this government guarantee has an estimated market value of at least \$100 million a year. This means that the New South Wales taxpayer is currently forgoing around \$100 million a year for the privilege of running a bank which has to compete in the marketplace. If that \$100 million a year opportunity cost is not sufficient reason for the Parliament to say yes to this sale, then let me add this. The issue of a government guarantee has been brought into very sharp focus, courtesy of previous Labor administrations in other States.

Ask the South Australian people what the cost associated with a Government guarantee in banking is

worth. They will say that it is around \$3 billion on a bad day, perhaps even more. Let me put that into perspective: that is the equivalent of almost half of the New South Wales health budget. We will never really know the true extent of losses in Victoria, because the Federal Labor Government had to sell off 20 per cent of the Commonwealth Bank to bail out State Bank of Victoria. By contrast, and contrary to the smear campaign of the New South Wales Opposition, the State Bank of New South Wales has been well managed and is in a sound financial position. But even if the guarantee is never called on, we are left with the undeniable fact that every year the sale of the State Bank is delayed New South Wales forgoes at least \$100 million on the market value of the government guarantee.

It would be financially irresponsible to allow this situation to continue for a day longer than necessary. But this is the path the Opposition would have us travel. In opposing this bill, the Opposition is asking the taxpayers of this State to continue carrying the risk and forgoing the reward. The time has come for New South Wales to accept that being in banking is not in the taxpayers' interest. That is the reality of the decision the House must make. The sale agreement and the legislation before the House are good for the taxpayer, good for the bank, good for bank customers and good for bank employees.

In developing its approach to the sale and in subsequent negotiations on the terms of the sale, the Government set itself three key objectives: first, sale of the bank on the best available commercial terms while addressing a range of preferences in the long-term interest of the people of New South Wales; second, enhancement of the competitive strength of the State Bank after privatisation; and third, strengthening the financial position of the State of New South Wales. The sale agreement that we have negotiated, and which I now present to the Parliament, addresses comprehensively and realistically each of these objectives.

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

QUESTIONS WITHOUT NOTICE

FINANCIAL INSTITUTIONS COMMISSION APPOINTMENT

The Hon. B. H. VAUGHAN: Is the Minister for Energy, and Minister for Local Government and Co-operatives aware that the Managing Director of the Australian Stock Exchange, Mr Dick Humphry - formerly head of the Premier's Department - has been appointed by the Government to the board of the New South Wales Financial Institutions Commission? Given that major credit unions are now raising money through the Australian Stock Exchange, has the

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Minister's appointment of Mr Humphry created a possible conflict of interest because of his position on the Australian Stock Exchange, remembering that that body regulates and supervises bodies such as credit unions?

The Hon. E. P. PICKERING: I advise the Deputy Leader of the Opposition that Mr Humphry has been appointed to the board of the New South Wales Financial Institutions Commission, because I appointed him.

The Hon. B. H. Vaughan: As Minister for Local Government and Co-operatives.

The Hon. E. P. PICKERING: As Minister for Local Government and Co-operatives. I did so with considerable pride because I believed he was a most suitable appointment to the board, as did all the members of the board. They have advised me that they consider the appointment to be most appropriate as Mr Humphry brings a considerable level of expertise to the board. The FINCOM organisation has been established to supervise the prudential standards of organisations within the community so that the investors can have some degree of confidence in building societies, credit unions and like organisations. In Victoria under the former

Labor Government millions of dollars were lost to the investing public when those sorts of organisations crashed to the ground.

The Pyramid collapse is an example of the sorts of things that occurred under Labor organisations in other States, which had no oversight of proper prudential standards within their economies. I shall stick out my neck a little because my memory may have eluded me, but if I am wrong I will be the first to clarify what I have said. The Federal Australian Financial Institutions Commission - AFIC - is responsible for the establishment of prudential standards for Australia. The State organisations are responsible for the implementation and supervision of those standards. In New South Wales that organisation is called FINCOM. I believe Dick Humphry to be a member of the AFIC board. Under those circumstances, I suspect that the question of the honourable member falls in a heap.

FINANCIAL INSTITUTIONS COMMISSION APPOINTMENT

The Hon. B. H. VAUGHAN: I ask a supplementary question. I still seek some comfort from the Minister. Is the Minister saying that he is not concerned that Mr Humphry overlooks credit unions - for example, in the position to which the Minister appointed him - at the same time as he overlooks, as general manager, the Australian Stock Exchange, on which money is raised by credit unions?

The Hon. E. P. PICKERING: I would have thought the two roles were supportive.

The Hon. D. J. Gay: Complementary.

The Hon. E. P. PICKERING: Complementary. It would seem that his role on the stock exchange is essentially to ensure the orderly operation of a stock exchange and to protect the investors of New South Wales. His role on the board of FINCOM is the same. I should have thought his appointment was entirely complementary. When I made the appointment, the suggestion the Deputy Leader of the Opposition is making did not cross my mind, nor did it cross the minds of the other senior financial advisers who advised me on that matter.

Later,

The Hon. E. P. PICKERING: Earlier this afternoon the Deputy Leader of the Opposition asked a question that held out that I had improperly appointed Mr Dick Humphry to the board of the New South Wales Financial Institutions Commission. I rejected that suggestion at the time. I have taken the trouble to seek advice from the New South Wales Financial Institutions Commission about the detail of the question asked of me, and I shall burden the House with the response given. The internal prudential scheme is a cooperative scheme, and the appointment of Mr Humphry facilitates communications between FINCOM, the State organisation, and AFIC, the Australian Financial Institutions Commission. That confirms what I said to the House before, that Mr Humphry is a member of both boards and provides effective communication between both boards.

The financial institutions agreement between the States envisages that the State supervisory authorities will have a voice on the AFIC board, and Mr Humphry provides that role. Mr Richard Humphry's experience, both in the capital market as managing director of the associated stock exchanges and in government is of value to AFIC and to FINCOM, giving some common ground when considering the complexities in today's financial markets. There are three directors of State supervisory authorities on the AFIC board, one from each of New South Wales, Victoria and South Australia. Their role enhances coordination between AFIC and FINCOM, represents New South Wales interests in the cooperative State-Federal financial institutions scheme, and allows for an exchange of knowledge and views between the States and AFIC.

When the question was first asked I was appalled at the suggestion that in some way I had placed Mr Humphry, and that he had allowed himself to be placed, in an improper position; that his position compromised

him. Honourable members should take heed of the last part of the advice I was given. I am advised by my department that credit unions do not raise money under the associated stock exchanges in New South Wales. However, the Illawarra Mutual Building Society trades under the exempt stock market, which is not supervised by the Australian Stock Exchange. Even if there were some suggestion of impropriety, the advice would eliminate that. Frankly, the last point is not relevant to the argument. The facts are that the role of Mr Humphry on the

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board of FINCOM and his role with the associated stock exchanges is to protect the interests of the investing public, in a prudential supervision of both systems. To suggest that there is a conflict of interest when both jobs are harmonious is utter rubbish.

OPPOSITION LOCAL GOVERNMENT POLICY

The Hon. Dr MARLENE GOLDSMITH: My question is directed to the Minister for Local Government and Co-operatives. On 26 October in this House the Minister spoke on the apparent Labor policy for local government, released by the honourable member for Drummoyne. Can the Minister advise the House whether the honourable member for Drummoyne has confirmed and detailed that policy?

The Hon. E. P. PICKERING: I know the honourable member takes a particular interest in the activities of the honourable member for Drummoyne, who is one of the shadow spokesmen for local government. The honourable member's question is important. It is central to whether the Labor Party of New South Wales is in a position to be elected as an alternative government in this State. This key question needs examination. Is the shadow group of spokesmen and spokeswoman in a position to seize the reins of government? There could be only one definitive answer - a resounding no. This shadow spokesman for local government -

The Hon. Virginia Chadwick: Who is he?

The Hon. E. P. PICKERING: A chap called Murray, John Murray. He made a remarkable speech at the local government conference. I wonder whether the speech was approved by his leader, and one would certainly have to query whether the speech was approved by the shadow cabinet. The look on the face of the Deputy Leader of the Opposition on the day that I revealed the ALP policy to the House could only lead one to assume that it did not go dangerously close, as a Minister used to say in this House, to the shadow cabinet, because it was clearly a shock to the Deputy Leader of the Opposition -

The Hon. Virginia Chadwick: And to Richard Face.

The Hon. E. P. PICKERING: And Richard Face was beside himself.

The Hon. Virginia Chadwick: He was off his face.

The Hon. E. P. PICKERING: He was right off his face. Not only did the honourable member for Drummoyne make a remarkable speech but, seized with the occasion, he spoke to the assembled media and expanded on the details of his speech. When I expounded on the expansion the Deputy Leader of the Opposition was stunned. He suggested, by way of interjection, that it was probable that the honourable member for Drummoyne had been misquoted. The Government accepts that members are misquoted. The only problem is that the honourable member for Drummoyne was quoted in the same way in a number of newspapers.

The Hon. Virginia Chadwick: He put out a press release.

The Hon. E. P. PICKERING: He also put out a press release, which is difficult to jump over. The honourable member for Drummoyne effectively said that a future Labor government - and that is a long way into the future - would get rid of a whole range of State government services. He started with the Department

of Sport, Recreation and Racing. He said that a Labor government would abolish the Department of Sport, Recreation and Racing and hand down the responsibilities of the department to regional councils. Councils would be bundled into regions all over the State. He said he would amalgamate the councils into regions and the regional councils would look after sport and recreation. He also indicated that a number of other government departments would be abolished, for example, the departments with responsibility for tourism, community health, licensing and public housing.

The Hon. Virginia Chadwick: Did he tell Deirdre?

The Hon. E. P. PICKERING: No, I do not think he told her. He said that not only would there be four tiers of government - local government, regional government, State government and Federal government - but that the regional councils would be run by a volunteer group, presumably to reduce costs. Volunteer part-timers would be put in charge of the regional councils.

The PRESIDENT: Order! The Minister does not require any assistance from members on either side of the House.

The Hon. E. P. PICKERING: One could only say that Darwin would support the proposed form of government. One can imagine the situation as the regional councils -

The Hon. J. P. Hannaford: Evolve.

The Hon. E. P. PICKERING: - not only evolve but negotiate with the Federal Government for the allocation of funds. Recently, I attended a meeting in Melbourne of local government Ministers, together with the Deputy Prime Minister, who is the Federal Minister for Housing and Regional Development. He explained a neat little scheme that he had in mind of withholding grants to individual councils that did not line up with quality production.

The Hon. Virginia Chadwick: Quality assurance.

The Hon. E. P. PICKERING: Quality assurance. If councils did not toe the line, the Federal Minister would withdraw their funding. I was a little upset about that. I made a short speech about how the New South Wales Government had led the charge on quality of government and how other governments were learning from it. I said that perhaps one could dangle a carrot, but the stick was not the way to treat local government or, for that matter, any government. To my absolute amazement,

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the Deputy Prime Minister told all the Ministers assembled that they would either do it the way that the Federal Government wanted them to do it, or the Federal Government would go around them. At that time, all the Ministers left and the Deputy Prime Minister went to the toilet. Someone spoke to him while he was in the toilet, and he came back with a different view. One can imagine how the regional councils will be dealt with when they go to Canberra.

Opposition members would be entitled to conclude that I have simply repeated what I said previously. The reason for doing so is that it is good to remind honourable members that the shadow Cabinet is squirreling away all these new things. Obviously, the Deputy Leader of the Opposition and the honourable member for Charlestown - my old home town - have had a word with Mr Murray because Mr Murray has now issued a press release. He has done a political backflip.

The Hon. Virginia Chadwick: A clarifying statement.

The Hon. E. P. PICKERING: He has made a clarifying statement. I quote from the press release:

The shadow minister for local government said that the Government today tried to deceive the public about Labor's policy on sport and recreation.

A Labor Government will not abolish or downgrade sport administration in NSW.

That is marvellous. The press release continued:

If Mr Downy had bothered to read my speech he could not have made these claims.

Copies of the speech are available from my office.

I turn to the august *Sydney Morning Herald*, which reported:

Speaking after the conference, Mr Murray said the move would involve reducing some State Government departments and transferring their functions to the regional organisations of councils (ROCs).

The Department of Sport and Recreation would close, with public servants moving from State to local government bodies.

Obviously, the *Sydney Morning Herald* has got it wrong. I turn to the *Newcastle Herald*. I have a high regard for that newspaper; it would not get it wrong. An article in that newspaper stated:

If the State Government says there is money in this for you they will have to pick their game up, he said.

There would still be some major areas that were better run by State Government, and these included hospitals and education.

There would be no ministry for sport and recreation, he said. The services provided by that ministry could be provided locally.

The trend is for the downsizing of major governments because people want to be close to those making decisions.

I am concerned that these two newspapers got it wrong when they were listening to Mr Murray. Clearly, Mr Murray did not say those things because his press release - he is an honourable man - shows that he did not say them. He has been misreported, which is terrible. I am sure that the honourable member for Charlestown will be happy that he will still have a job as the shadow spokesman on sport and recreation after 25 March. I should like Mr Murray and, above all, Mr Carr to release the policies. What are Labor's policies? Why do Opposition members not tell us what will happen to local government if Labor is ever elected to government in this State? One thing that is noticeable about Opposition members is that their morale is sliding away at a rate of knots - one has only to look at their faces to see that. Clearly, they are frightened stiff of releasing any policy because, invariably, once they release policies, one can highlight their deficiencies.

This Government has been so successful since 1988 that all other State governments and the Federal Government have done nothing but emulate all the initiatives introduced by the Greiner-Fahey Government. Labor does not have any policy in local government or in any other area of government. Its lack of policies leads Opposition members in another place - they would not do it here - to denigration. I have been in this Chamber for a long time, and I am fed up with Opposition members playing the man and not the ball. If Labor wants to be elected to government in this State, it should start playing the issues and stop playing the dirty gutter politics that are a feature in another place at this stage of the game.

Opposition members know that if they want the Government to take off the gloves, it can do so. Recently, I read a document entitled "Abuse of Power", which exposes the machinations of a new member in another place, the honourable member for Cabramatta, and her cheeseburger politics. If that document had a run, there might be a few embarrassed faces opposite. The Government has produced an exceptional result in this State over a period. The results are exceptional in every area of government. Labor is bereft of a feather to fly with. It is time that it settled down and started to develop some policies and expose them to the people of New South Wales so that we can debate what the Opposition is about in this State.

TEACHERS STRIKE

Reverend the Hon. F. J. NILE: I ask the Minister for Education, Training and Youth Affairs a question without notice. Is it a fact that the New South Wales Teachers Federation has called a strike by all its members employed in New South Wales schools and technical and further education colleges for Wednesday, 23 November? Is it a fact that on Monday the New South Wales Industrial Court would not order the teachers to continue to work because it believed that the order could not be conveyed to all teachers in time, despite modern media means such as fax, radio, television, et cetera? What effect will this completely unjustified teachers strike have upon schools, teachers, working parents and students sitting examinations in schools and TAFE colleges especially?

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The Hon. VIRGINIA CHADWICK: The honourable member has asked an important and pertinent question. This matter has occupied much of my time over the past six months, and especially in recent days. It weighs heavily on me as we face a statewide strike tomorrow. Sadly, it is true that attempts yesterday to have sense prevail and to have the strike called off were not successful. However, we were successful yesterday in having good sense and decency prevail in that TAFE students, who in some cases have worked longer than a year - it is much longer than one year for those who have been studying for associate diplomas and so on - will be sitting examinations tomorrow. Arrangements will be made for the 13,500 students who would be affected by the strike to sit their examinations. Students need have no fear that they will be disadvantaged. That is one good outcome of the movement to the Industrial Court.

However, I advise the honourable member and the Chamber that, following consultation with colleagues and the Premier, certain decisions have been made of which the honourable member may not be aware. They were publicised by me earlier this afternoon. I have advised the federation that my door remains open. Last Friday I met with the federation, officers of my department have met with the federation and, if the federation is willing, I am ready to meet with its representatives in an endeavour to resolve the dispute. Concurrently, however, given the failure of negotiations over the past six months, I have also instructed the Department of School Education and the Technical and Further Education Commission of New South Wales to begin the preparation of materials that will lead to the lodgment of the dispute with the Industrial Commission which, as soon as the documents are completed, the Government will lodge if the dispute is not resolved and proceed to arbitration.

For those in the Chamber who are interested in industrial relations - and I know that applies to many honourable members on both sides of the Chamber - the decision to notify a dispute, failing resolution, is a significant and important step. I will abide by the umpire's decision. I remind honourable members that the 1991 TAFE teachers dispute was the last long-running dispute of this nature. The arbitrated solution meant that TAFE teachers received less than the amount the Government had offered them in 1989. I realise that arbitration can go both ways, but I urge the federation executive to ponder upon the dispute in the hope of finding a resolution. I also advise the honourable member and the Chamber that simultaneous with the lodging of the matter in the commission will be the automatic withdrawal of the offer of an 8 per cent salary increase, made under the terms of an enterprise agreement. If the matter goes to arbitration, those terms will no longer be relevant.

I have been increasingly concerned at the heightening political rhetoric surrounding the dispute. On Saturday evening while watching television I was horrified to hear the President of the New South Wales Teachers Federation just before the vote was taken by the New South Wales Federation Council speak of taking a vote and seeking to bring down the Government. Comments made in the media reveal that the dispute has become a political campaign. As a result, I have instructed officers of my department to make arrangements to cease the deduction of Teachers Federation fees from the salaries of teachers. After 4½ years of increasing goodwill, peace and harmony in the school system, this dispute has not come easily. I take no particular pleasure in the situation having reached this point. However, in all conscience, one cannot continue to negotiate with people who do not have the best interests of their membership at heart and who, increasingly, are

determined to disadvantage their members for their own political reasons.

I am very annoyed at the assistance given by both the Labor Council and members of the Opposition to ensure that the dispute turns into a State political issue. I do not believe that the dispute has served the State well. I would like to know where the State Opposition stands in relation to teachers' salary increases. I have listened to the deafening silence of the Leader of the Opposition. Does he support the strike tomorrow? Does Mr John Aquilina support the strike tomorrow? Who would know? Does the Opposition think that the Government's 8 per cent offer, which would make New South Wales teachers the highest paid teachers in Australia, with a safety net that I offered last Friday to review the matter next Christmas, is a fair and reasonable offer, or does it support a 10 per cent increase over seven months on top of the 5 per cent teachers gained in the past 12 months? Who would know? We have been met with deafening silence.

It is perfectly clear that Mr Carr, by his silence, is totally reckless of the financial consequences to this State. He is obviously highly supportive of the actions of the executive - not the teachers - of the Teachers Federation. He clearly and quite erroneously sees the dispute as a political exercise in the lead-up to the March elections. He has nothing but support, I presume, for the executive of the Teachers Federation. On Saturday afternoon at the meeting of council, as the president led the federation council to a vote, he said that he would get rid of the Government and bring it down. Clearly he is in cahoots with Mr Carr and with Mr Aquilina.

The federation is running a blatant political campaign. No wonder Mr Carr is silent. Phil Cross and Denis Fitzgerald are doing his dirty work while he sits silently on one side and will not say whether he supports the strike action, whether he supports 8 per cent, or whether he supports 10 per cent. Even the Parents and Citizens Federation has commented on how quiet the Opposition has been. Ros Brennan, the President of the Parents and Citizens Federation, said yesterday that she had not heard a whisper from the Opposition. Earlier in the dispute Mr Aquilina said that he did not condone strike action. Where is he today? I challenge both Mr Aquilina and Mr Carr to say what they think of the teachers strike tomorrow and what they think of an 8 per cent salary increase with a safety net. Do they support that offer? Do they want to strike? Do they want 10 per cent?

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Mr Aquilina said that there had not been negotiation, but there has been. The Government has been doing nothing but negotiating for six months. Mr Aquilina and Mr Carr think they can have two bob each way. John Aquilina, who is nothing but the John Doe of education policy in this State, is turning into a bit of a mugwump. He is sitting on the fence with his mug on one side and his wump on the other. No-one can get him to say definitively where he stands on this issue. I know where they stand. It is clear for all to see that they are in cahoots with the executive of the Teachers Federation, and people will judge them accordingly.

CHILD ABUSE OFFENDER SENTENCING

The Hon. R. D. DYER: My question without notice is directed to the Attorney General, and Minister for Justice. I preface my question by referring the Minister to the sentence of a minimum prison term of 12 months imposed in the District Court last week on a father who inflicted shocking injuries on his son to the extent that the presiding judge described the injuries as monstrous and the most serious case of child abuse against a baby without causing death. Is the Minister able to confirm that the Director of Public Prosecutions has called for the court papers for the purpose of considering whether an appeal should be lodged? Does the Minister agree that there is a tendency for some members of the judiciary to impose lenient sentences in serious child abuse cases? Does he believe that the judicial commission might have a role to play in promoting the standardising of sentences regarding this category of offence?

The Hon. J. P. HANNAFORD: The honourable member's question is appropriate. I am aware of the sentence imposed by Judge Moore. I recall from the briefing I received that the Director of Public Prosecutions did call for the papers in this matter even before it was raised in the media. I am able to confirm, therefore, that

the Director of Public Prosecutions has called for the papers. I agree that from time to time issues such as this have been raised in the press and that consistency is needed in the level of sentences imposed in these matters in order to retain the public confidence. This issue has been addressed by the Judicial Commission. However, if the commission has not addressed the issue of late, I will draw the honourable member's question to the attention of the commission.

NATIONAL ELECTRICITY GRID

The Hon. J. F. RYAN: My question is directed to the Minister for Energy, and Minister for Local Government and Co-operatives. Last week in this House the Minister criticised Terry Larsen of the Totally Opposed To Eastlink group over his reported comments on an Eastlink meeting. Can the Minister advise the House whether there has been any further response from Mr Larsen?

The Hon. E. P. PICKERING: This important matter should be drawn to the attention of the House. Last week I expressed concern at press reports of statements made apparently by Mr Larsen to the effect that the Eastlink concept was part of a grand plan on behalf of either this Government or the Federal Government to privatise the national power grid. At the time I said that Mr Larsen had been badly misquoted or was lying. This afternoon I received a document, addressed to me, at the beginning of which Mr Larsen claims that he was misquoted and in which he dissociates himself from the comment to which I have referred. In his letter he then presents me with a summary of the meeting between the Totally Opposed to Eastlink group, myself, Minister Chappell, my officers, Minister Chappell's officers and three senior representatives of Pacific Power. If I was concerned about earlier press reports about the nature of that meeting, I am appalled by what Mr Larsen now believes was discussed at the meeting and by what I am supposed to have said. Mr Larsen, in the letter he sent to me - I presume he will not try to suggest he has been misquoted - stated:

Mr Pickering explained that the Government had not yet decided on how it was going to break up Pacific Power. They had separated the Grid that day and he envisaged perhaps up to three separate Corporations for the power stations.

I did not make any such statement. In answer to a question put to me on more than one occasion about the future of Pacific Power, I explained that, by way of the Council of Australian Governments conference agreement, the Premier of New South Wales signed a document which makes clear to the world that it will review the future of Pacific Power. In the context of a national market for electricity, there is concern in other States that Pacific Power might represent a rather large generating unit that might militate against development of a proper competitive commercial market. In fact, the Victorian Government is breaking down its power generating complex to individual stations and putting them up for sale to the private sector. I indicated to Mr Larsen that, in line with the undertaking given by my Premier, we were reviewing what to do with Pacific Power. I assure this House that I have absolutely no idea what might ultimately be recommended to me by the committee of review. I have even less idea what might be acceptable to Cabinet, as it is not a matter that I have brought before Cabinet. The document states, under the heading "The Bottom Line":

The Government claims it is building Eastlink on the possibility that Queensland might want to buy power from NSW in 1987 but it can't be completed until the end of 1988!

Wrong again! What I said at that meeting, and also recently in this House, is that there is a basic agreement between the three governments to look at the feasibility of building an Eastlink line. No Eastlink line will be built unless the Queensland Government intends to buy electricity from New South Wales.

[Interruption]

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There is a contract. The next statement in "The Bottom Line" is that the Government wants to sell more power. This Government warmly embraces all communal, national and international concerns about the

greenhouse effect. The Government is party to agreements to rectify or at least to address that problem, and has well and truly embarked upon what it calls demand-side management programs and investigations of other means of producing power. The next statement under the heading "The Bottom Line" is that the Government wants to ignore energy efficiency, for example, solar and demand-side management. I certainly did not say that. My departments are pouring millions of dollars into solar research and demand-side management in this State. I completely support both programs. Why I could be thought to have said such a thing is beyond my comprehension. According to this document, I am then supposed to have said that greenhouse gas targets are not important. I did not say any such thing. I am deeply grateful that many other people were present at that meeting who would be able to confirm that I did not make those stupid and outrageous statements.

The Hon. Virginia Chadwick: Who is this turkey?

The Hon. E. P. PICKERING: Mr Terry Larsen, a gentleman who belongs to a group called Totally Opposed to Eastlink. I am not out to denigrate that group or this important public debate and all its ramifications. But when Ministers take time - an hour and a half on this occasion - to meet with very senior officials of a department and to enter into a genuine desire for proper consultation, discussion and negotiation, they should not be so massively misquoted as I have been in this document. The bottom line of this document states that I said I do not want an open discussion on these matters. The fact that I spent an hour and a half with these people would be a fair indication that that is not true. I have been to various public meetings up north on the matter. I am perfectly happy to see the democratic process of public discussion take place. I would be the last person to try to stifle it.

PAIN MANAGEMENT

The Hon. ELISABETH KIRKBY: My question without notice is directed to the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Health. Is the Minister aware that present procedures for prescription of morphine are inadequate in rural areas throughout New South Wales and that many doctors are seriously concerned about the pain their patients have to suffer as a result of these rigid procedures? Will the Minister consider changing the law to allow medical practitioners the ability to prescribe heroin for pain management for advanced cancer sufferers, in view of the fact that more than 6,000 people in New South Wales have advanced cancer, many of whom experience pain partly because of outmoded attitudes about the use of heroin?

The Hon. VIRGINIA CHADWICK: I understand the seriousness of the honourable member's question and regret that I do not have the material available to give credit to a detailed reply. I will forward the question to my colleague in another place for his consideration.

LEGAL PRACTICES

The Hon. FRANCA ARENA: I ask the Attorney General, and Minister for Justice a question without notice. Is the Minister in conflict with the Federal Attorney-General regarding overseas lawyers practising overseas law in Australia? Is it a fact that whilst Mr Lavarch believes that any arrangements for overseas lawyers practising in Australia should be reciprocal, the Minister has stated that such reciprocal arrangements are not necessary? Will the Minister explain to the House his position on this important issue, as it is of great concern to people overseas?

The Hon. J. P. HANNAFORD: I am in conflict with Attorney-General Lavarch over this issue. I am also in conflict with the Law Society and most of my fellow Attorneys-General around Australia.

The Hon. Virginia Chadwick: Not again?

The Hon. J. P. HANNAFORD: Again. Those Ministers wish to introduce a regulatory scheme in each

Australian State for overseas lawyers practising overseas law in Australia. In effect, they want to create another law society to deal with overseas lawyers practising their law in Australia. Presently an Italian lawyer can set up business and practise Italian law in Sydney - there is no restriction, and he can maintain his practising certificate in Italy. If Transfield, a company with strong Italian associations, wants to obtain advice here on Italian law, it can do so from that lawyer.

The Hon. Virginia Chadwick: What is wrong with that?

The Hon. J. P. HANNAFORD: Exactly, what is wrong with that? That procedure should be available. The Federal and other State governments say that we should entertain reciprocal arrangements; we should close the door to Australia for those wanting to practise law and we will open it a little bit while negotiating reciprocal arrangements with each country.

The Hon. Franca Arena: Can an Australian lawyer practise Australian law in Italy on the same basis?

The Hon. J. P. HANNAFORD: As I understand it, in most countries -

The Hon. J. W. Shaw: But he cannot practise law in Hong Kong.

The Hon. J. P. HANNAFORD: They are able to practise Australian law in many countries provided they do not practise that country's domestic law. An Italian lawyer could not practise Australian law

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without a licence. We have enough difficulties regulating the behaviour of New South Wales lawyers. If a Japanese lawyer practised Japanese law in New South Wales and did something wrong, where would we find experts to challenge his professional ability to deliver that law in Sydney? It is illogical to suggest we should close the door. Protocols should be established with equivalent Japanese lawyers so that problems can be dealt with. For my part, if an Italian wishes to advise people on Italian law in Sydney, he or she should be able to do so; if someone from Hong Kong wants to advise on Hong Kong law in Sydney, he or she should be able to do so; and if someone wants to come from Tokyo and advise people here on Japanese law, that person should be able to do so.

In the service industry we are a free trade nation. We are prepared to welcome the internationalisation of legal services and we expect similar arrangements from other governments. It is irrational to negotiate access into Japan while keeping our door closed. It is equally illogical to say we should try to regulate and enforce some disciplinary code and standards in the way overseas lawyers deliver their law in this State. At all meetings of Attorneys-General I have said this approach serves no purpose. However, all other State Attorneys-General like the idea of closing doors and negotiating to open them. They can introduce that type of legislation, but while I am Attorney General, New South Wales will never have any such law. If people want to deliver those services in New South Wales, they are welcome.

ABORTION PRACTICES

The Hon. ELAINE NILE: I direct my question without notice to the Attorney General, and Minister for Justice. Is it a fact that Dr David Grundmann has publicly stated, "I would have no qualms about performing abortions at 24 weeks by cranial decompression so that there is no chance of delivering a live foetus", that is, a live six-month-old baby? What action will the Minister take to prevent Dr Grundmann setting up his operations in New South Wales, particularly his establishment of an abortion clinic in Newcastle?

The Hon. J. P. HANNAFORD: I am not familiar with Dr Grundmann or any of his comments. However, New South Wales law on pregnancy terminations is quite clear. If the practices of Dr Grundmann are brought to the attention of the police force and are in breach of the law, I have little doubt those laws will be stringently enforced against him.

SYDNEY ELECTRICITY SUPPLY

The Hon. PATRICIA FORSYTHE: Can the Minister for Energy, and Minister for Local Government and Co-operatives advise the House of the effects of Sunday's severe storms on the power supply in Sydney and the efforts made by Sydney Electricity to repair the damage?

The Hon. E. P. PICKERING: This is a matter of interest to most members of the House. The number of blackouts that have been occurring in the Sydney Electricity supply area have been steadily decreasing for quite some time. The inference is that the reliability of electricity supply has been steadily improving. Under the reliability index, which is the benchmark used in the electricity supply industry, the Sydney Electricity index was 76 minutes average loss of supply per customer for 1993-94, excluding the time taken to repair damage caused by the January bushfires. This is the lowest index of the four metropolitan distributors, the rest of New South Wales and other States of Australia. The 1993-94 index is a significant improvement on the 1989-90 index of 104 minutes.

The Sunday storm bears some comparison to the devastating tornado that struck part of the north shore in January 1991. That storm ripped through a narrow strip of land about one kilometre wide and five kilometres long, causing immense damage to property and cutting power to some 160,000 homes. The recent storm was not as intensive and caused less property damage but it struck every suburb between the harbour and the Hawkesbury River. The full extent of damage to electricity supply - powerlines brought to the ground and broken power poles - became apparent in the daylight on Monday morning. All honourable members would have seen the horrific damage on the television news last evening.

Sydney Electricity responded with prompt and professional expertise even as the violent storm was moving out to sea. Staff were called in to head office to take telephone calls on the emergency lines; line workers and technicians were called in to their depots; and depots at Hornsby, Chatswood, Ryde and Dee Why were opened. The storm immediately cut supply to some 135,000 homes, mostly in the north. Supply was restored to many thousands of homes within an hour or two, and by about 10.00 p.m. Sydney Electricity had restored supply to about 80,000 residences. The staff of Sydney Electricity worked through the night, cutting away fallen lines and making the area safe electrically. By Monday morning fresh crews from Sydney Electricity had come in from the southern and eastern regions to relieve the teams that had worked all night. Early on Monday morning it was estimated that the number of homes without supply totalled 10,000, compared with 135,000 immediately after the storm.

Sydney Electricity was supported in its endeavour by line crews from both Shortland Electricity and Illawarra Electricity. I thank them most sincerely for that. It is easy to be critical but I suggest that, given the facts, the efforts of Sydney Electricity deserve an expression of appreciation rather than criticism. I would have thought Opposition members would have been happy to pat an agency on the back rather than talk amongst themselves. At 3.00 p.m. today the power supply of about 30 homes still needed reconnection. It is expected that they will be connected by 5 o'clock this afternoon. During the storm, winds of more than 100

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kilometres an hour ripped whole trees out of the ground and sent them flying through the air. They smashed homes, cars and power poles. It has been a major task for electricity line workers to clear up the debris, which is essential in order to restore lines and to reconnect supply.

Under the previous Labor Government, Sydney Electricity was heavily overmanned and locked into out-of-date work methods. In the last three years in particular Sydney Electricity has achieved extraordinary benefits for the community, including price cuts of 22 per cent for 100,000 small and medium-sized businesses and a three-year price freeze for householders, who continue to have the lowest electricity prices in any State capital. I mentioned earlier that Sydney Electricity's power supply reliability performance is steadily improving. It is the Australian leader. This is due to the use of a total quality philosophy for continuous improvement of its work methods. Between 5.30 p.m. on Sunday and 7.00 p.m. on Monday, Sydney Electricity's emergency telephone service dealt with 10,300 calls. Apparently, approximately 16,000 callers

were satisfied after receiving recorded messages which indicated which suburbs were affected by power blackouts. I am advised that Sydney Electricity has 110 lines to deal with this sort of situation. As of today the number of lines has been doubled to 220. Callers who are put into a queue are informed, by way of a recorded message, whether their suburb is affected and they are then given the option of waiting on the line.

Callers are also given advice, through a recorded message, about electricity hazards and they are asked to report problems, such as fallen power lines, to the police, via the 000 emergency line. I am advised that Sydney Electricity's telephone system recognises priority calls from police and emergency services. Sydney Electricity has a program of putting its larger 11,000 volt lines underground. Over the past three years \$30 million has been spent putting 60 per cent of these lines below ground. I am advised that it would cost billions of dollars to put all lines underground in the Sydney area. Since 1970 Prospect Electricity has had a policy of putting lines in new urban residential areas underground. I am advised that this has been achieved in 35 per cent of its network. It should be noted that it costs between four to 10 times more to put powerlines underground. All instrumentalities are to be congratulated on what they have done over the past few days. We have certainly learnt from some of the problems that developed and we will take effective action to ensure that similar problems do not occur in the future.

LAW SOCIETY ACTIONS AGAINST BANKRUPT SOLICITORS

The Hon. Dr MEREDITH BURGMANN: My question without notice is directed to the Attorney General. Are solicitors entitled to remain as practising solicitors advising persons in relation to their financial affairs and legal purchases when they are undischarged bankrupts? If a solicitor is declared bankrupt can any client who sues that solicitor for negligence suffer a loss as a result of the solicitor not being able to pay the excess on the claim - a loss which could range between \$6,000 and \$30,000? Has the Law Society taken any action in relation to the fact that Bryan John Gorman, solicitor, of the legal firm Gorman and Dunbier of Campbelltown, was declared bankrupt on 7 September 1994?

The Hon. J. P. HANNAFORD: I will take on notice the question asked by the Hon. Dr Meredith Burgmann and provide her with an answer.

CROOBYAR STATE FOREST

The Hon. R. S. L. JONES: My question without notice is directed to the Minister for Planning, and Minister for Housing, representing the Minister for Land and Water Conservation. Is there currently a blockade of the magnificent wilderness area of Croobyar State Forest, a very high conservation value old growth forest? Did the managing director of the then New South Wales Forestry Commission give a written commitment that no logging, road construction, or associated forestry activities, such as woodchipping, would be undertaken in the National Parks and Wildlife Service identified Budawang wilderness area? Is this logging activity yet another violation of the national forest statement signed by the Premier? Will the Minister order an immediate cessation of logging in this high conservation value native forest?

The Hon. R. J. WEBSTER: I am sure that, in the fullness of time, my colleague the Minister for Land and Water Conservation will answer that question.

WATANOBBI PRIMARY SCHOOL PROPOSAL

The Hon. JAN BURNSWOODS: Does the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier intend to release the demographic information requested by the honourable member for Wyong relating to the entire Wyong area on which the Minister has based her decision not to build a new primary school at Watanobbi? If so, when? If not, why not?

The Hon. VIRGINIA CHADWICK: I cannot recall the details of that demographic information. A number of studies have been carried out on the central coast to determine whether there was a need for a new high school at Tumby Umbi and whether there was a need for a new primary school. If the local member does not agree with decisions made by me and my department he should not necessarily shoot the messenger - in this case the demographer.

The Hon. Jan Burnswoods: Will you release the information?

The Hon. VIRGINIA CHADWICK: I will look at the information and make that decision.

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RANDWICK COUNCIL PLANNING POLICY

The Hon. ANN SYMONDS: Did the Minister for Planning, and Minister for Housing recently receive a deputation from a group of developers and estate agents organised by Councillor Margaret Martin of Randwick council? Was Vince Messina, former town planner from Randwick council, one of the group? Did some building chiefs breathe a sigh of relief when the Minister stated that developing properties currently before the council were in no danger of being rejected? Did the Minister raise the issue of the self-certification of development applications by the Victorian State Government which bypassed council involvement? Does the Minister intend to introduce self-certification in New South Wales?

The Hon. R. J. WEBSTER: It is obvious that the Hon. Ann Symonds was not present at that meeting.

The Hon. Ann Symonds: I read all about it in the local paper. This is why I have been alerted to it.

The Hon. R. J. WEBSTER: The honourable member should not believe everything she reads in the paper. I, in the company of Mrs Margaret Martin - the endorsed Liberal candidate for Coogee, who will make an excellent member for Coogee - met a deputation of very concerned residents from the Randwick municipality. Mrs Martin brought these people to see me because of their concern about the way in which the Labor Party controlled Randwick council was dealing with development applications in that area. It is fair to say that I gave certain assurances to those resident groups.

The Hon. Dr Meredith Burgmann: Was Mr Messina there?

The Hon. R. J. WEBSTER: I have never met Mr Messina. I gave certain assurances to those groups -

The Hon. Dr Meredith Burgmann: Was he there?

The Hon. R. J. WEBSTER: As far as I am aware, Mr Messina was not present.

The Hon. Dr Meredith Burgmann: What do you mean when you say, "As far as I am aware"?

The Hon. R. J. WEBSTER: I do not recall having met him. I certainly would recall if I had met him, knowing who he was. I cannot, off the top of my head, name the people in that deputation.

The Hon. Dr Meredith Burgmann: I can.

The Hon. R. J. WEBSTER: Obviously, the honourable member thinks she can. She is wrong in thinking that Mr Messina was there, so she is probably wrong in a few other areas. I made it very plain to the group that it was within council's power to prepare a housing strategy for the Randwick municipality that would encompass the principles of urban consolidation, which this Government has endorsed, and ensure that the values of various areas within that municipality, such as heritage areas and areas of high conservation value, are preserved and are not subject to inappropriate development. I then wrote a letter to the council which I

understand has been made public, stating clearly my attitude to the whole matter.

The Hon. Ann Symonds: What about the self-certification issue?

The Hon. R. J. WEBSTER: I do not recall ever mentioning self-certification.

The Hon. Dr B. P. V. Pezzutti: It is a good idea.

The Hon. R. J. WEBSTER: The Hon. Dr B. P. V. Pezzutti says that it is a good idea. It is an idea that has been around for a long time and has considerable merit. Mr Gary Sturgess in his red tape report to the Government advocated something similar.

The Hon. L. D. W. Coleman: The Standing Committee on State Development recommended it.

The Hon. R. J. WEBSTER: As the Hon. L. D. W. Coleman said, the Standing Committee on State Development has also made that recommendation. I understand the sensitivity that the Hon. Ann Symonds may be feeling because of the impact that Mrs Martin is making in the Coogee electorate.

The Hon. Dr Meredith Burgmann: Why do you keep mentioning Genevieve Rankin?

The Hon. R. J. WEBSTER: Who is she? The fact is that the residents of the Randwick municipality were concerned. I gave them some comfort. That is more than they have had from their local member, who treats most of the people there with contempt.

The Hon. J. P. HANNAFORD: I suggest that if honourable members have any other interesting questions they put those questions on notice.

RU486 ABORTIFACIENT TRIALS

The Hon. J. P. HANNAFORD: On 27 October I answered a question without notice asked by Reverend the Hon. F. J. Nile in relation to a request for a grant of a fiat to the Right to Life Association (New South Wales) Incorporated. I have certain supplementary information to provide in relation to that question and I seek the leave of the House to have that supplementary information included in *Hansard*.

Leave granted.

I refer to an answer which I gave in the Council on 27 October 1994 to a question without notice asked by Reverend the Hon. F. J. Nile in relation to a request from the Right to Life Association (New South Wales) Inc. At the time, I advised the House that I did not recall having received any material in relation to a request for me to grant a fiat to enable a case to be pursued in the Federal Court. However, I indicated that I would check to see if a request for the grant of a fiat had been received from the solicitors representing the Right to Life Association.

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Later that day I advised the House that no record could be located of any request having been received from the Right to Life Association (New South Wales) Inc in order that an appeal might be pursued before the Full Court of the Federal Court in relation to a decision of the Secretary of the Commonwealth Department of Human Services and Health to trial the drug, mifepristone, RU486.

I have subsequently discovered that my department received correspondence from Mr D. F. Tudehope, the association's solicitor, on 25 October 1994. I understand that my department immediately sought Crown advice in relation to the legal issues involved in such a request, and the matter was brought to my attention on 7 November 1994.

I examined the Right to Life Association's request in conjunction with the analysis of the issues provided by the Crown Solicitor

and determined not to grant the association my fiat. I did not perceive it as appropriate for me, as Attorney General of New South Wales, to become involved in what was primarily a dispute concerning issues before the Federal Court. Consequently, as I foreshadowed in my response to the House on 27 October 1994, I suggested that any request for a fiat in this situation be directed to the Federal Attorney-General.

STATE BANK (PRIVATISATION) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [5.05]: I seek the leave of the House to incorporate the rest of my second reading speech in *Hansard*.

Leave granted.

As such, all other alternatives for sale are fantasy. They may sound good, but they will not work. Indeed, they could cost the State dearly. Before I outline how our three key objectives have been achieved, I shall briefly acquaint members with the sale process which has led us to this position. The formal, in principle decision to sell the bank was announced by the Premier on 25 November 1993 after an exhaustive analysis of the bank's financial and strategic position by Treasury, along with the Government's financial adviser, Bankers Trust, and leading accounting and management consulting firm Price Waterhouse.

This analysis concluded that the bank, under continued government ownership, would be placed under great competitive pressure. The study also concluded that there was a strong financial case to sell the bank and for the sale to occur in 1994, that is, as soon as possible. There was also a strong conclusion that deferral of sale could be justified only if there were a strong view that there would be a substantial increase in the sale price flowing from deferral. However, such a future price cannot be substantiated to any adequate degree by any credible and recognised financial adviser. In other words, when the Opposition talks about a future value of the bank, it is simply plucking figures out of the air, figures which have not and cannot be substantiated by any reputable financial adviser or valuer.

Put simply, to delay the sale in the hope of a better price in the future is nothing better than a punt, a gamble that the Opposition would willingly force on this State. Finally, the study concluded that the only privatisation option for the Government in 1994, and probably 1995 and 1996 as well, was a direct sale. Sale by public float or by merger with other State Banks was assessed as not being possible in 1994, nor likely to be possible for the next two to three years at least. Bear in mind that the longer we wait, the more the State's exposure grows.

This Government is committed to ensuring that the State Bank becomes a fifth force in banking, therefore maintaining and enhancing competition in the Australian banking industry. We have been strongly criticised by some organisations, and in particular the Leader of the Opposition, for excluding the four nationally operating banks from the sale process. We make no apology for that policy decision. While we might achieve a higher price by selling to one of the big four banks, it would be at great cost to jobs, great cost to branches and great cost to competition in the banking industry. The State Bank, one of the State's enduring financial landmarks, would simply vanish overnight.

Knowing all of this, the Opposition still says the four major trading banks should have been allowed to bid for the bank. Let there be no doubt about the kind of sale the Opposition would pursue if it were ever in a position to sell the bank. The sale process, which commenced in November last year, has been designed to maintain the maximum competitive pressure in the banking sector. A worldwide search was undertaken to identify organisations interested in the acquisition of the bank. As a result of this, 54 expressions of interest were received.

These were assessed on three criteria: capacity to meet the Government's preferred terms; ability to finance the purchase; and ability to gain the necessary regulatory approvals. Six organisations were assessed as meeting these criteria and all six entered the sale

process. During the next stage of the sale process, four organisations came to the conclusion either that acquisition would not meet their strategic needs or that they could not meet adequately the Government's preferred terms and withdrew from the process. On 28 March this year, at the final stage of the sale process, two organisations submitted indicative offers. The offer by Colonial Mutual Life Limited was clearly the preferred proposal.

However, in order to continue to maintain competitive pressure, the two organisations were allowed to enter the due diligence process. Allowing more than one organisation to undertake due diligence in a bank sale is extremely rare, if not unique. Subsequent to the commencement of due diligence, the second party also determined it could not adequately meet the Government's preferred terms and withdrew from the sale process. There can be no dispute that Colonial Mutual Limited developed and submitted its proposal in a fully competitive environment. Further, the bidders submitted their offers knowing there were at least three parties still involved in the sale process.

Any claim, such as that peddled by the Opposition, that this was a one horse race is entirely fallacious and made in complete ignorance of the manner in which the bidding part of this sale was conducted. The bidding component of this sale did what it was designed to do: it delivered competing offers. It also weeded out those parties which could not meet the Government's preferred terms. Having established a highly competitive bid, we were then in a position to go through due diligence and final negotiations with the successful bidder. Colonial Mutual Limited undertook full due diligence of the bank over several months. Negotiations proceeded with Colonial Mutual Life Limited, based on their non-binding offer and the Government's preferred terms. Those negotiations resulted in an improvement in the proposal initially put forward by Colonial. The result is the proposal which I present to Parliament today. The details of the transactions are set out in the document entitled, "Conformed Copies of Transaction Documents".

That document includes the share sale agreement and associated documents. I do not wish to outline the transaction in detail at this time. The tabled document provides a full, comprehensive statement of the position. However, I would like just briefly to touch on a number of key points. There are three phases in the transfer from public to private ownership, reflecting the need for appropriate transitional arrangements. The share sale agreement has been executed and in the period from now

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until all the conditions precedent in the contract are satisfied, the Government continues to be the owner of the bank, though Colonial obviously has a close interest in its performance and position.

Once all conditions precedent are met, which include the approval of this Parliament, ownership will transfer to Colonial. From this period, through a period of three years, there will be a continued government guarantee on funding liabilities of the bank. This continuance of the government guarantee is made in order to maintain funding stability and avoid any concerns by depositors about the safety of their deposits and provide time for the bank under private ownership to develop a revised approach to funding. Beyond the three-year period, the guarantees will rapidly run off as deposits mature. It would be financially reckless and detrimental to the future of the bank not to allow this transitional period for removing the government guarantee. Also during this three-year period there will be certain indemnities given by this Government in respect to abnormal banking risk with loans in existence at the date of sale and undertakings given by Colonial addressing a range of government preferences.

This indemnity creates no new risk - it simply covers the risk the taxpayer already carries. Let me make it absolutely clear: the taxpayers' risk starts reducing from the date of this sale. The sale price for the bank is \$576.5 million, all but \$50 million of which will be paid this year. The final \$50 million instalment will be deferred for three years, bearing full commercial interest rates in recognition of Colonial making an immediate capital contribution to the bank of this amount. In all, the sale will deliver total proceeds to the State, including the interest on the deferred \$50 million, of about \$590 million. Contrary to the wilfully misleading statements of the Opposition to date, this Government will use 100 per cent of the sale proceeds to retire debt. They will not be used, as the Opposition has wrongly claimed, to fund election promises. And, unlike the Federal Labor Government in its treatment of privatisation proceeds, the coalition in this State will not use the proceeds of the sale of the State Bank to prop up or distort the budget position.

I would like to now return to the issue of how the proposed terms of the sale of the State Bank line up with the three objectives which the Government has set for this sale. The first objective was for the sale of the bank to be achieved on the best available commercial terms. The sale has been undertaken in a competitive process with the proposal submitted to the Government framed in a fully competitive environment. There is no doubt that these are the best available terms for the sale of the bank. The Government's financial adviser, the leading investment bank, Bankers Trust, has assessed the price against relevant market benchmarks, bearing in mind the Government's preferred terms of sale. Bankers Trust advises that the price is fair and reasonable and takes proper account of the prospects for future improved profitability of the bank.

Beyond price, it is important to assess these proposals against the Government's preferred terms and I wish now to report on the position of each of these. First, the Government required that the sale be finalised in 1994 and payments as far as possible be completed in that year. This will be done, with all but the deferred \$50 million capital contribution received by January 1995. Second, the Government required minimum government guarantees on the liabilities of the bank. It is not possible or appropriate to immediately withdraw the guarantee from current liabilities, as this would place the bank under intolerable market pressure. The sale, as I have already said, provides for a realistic transitional period of three years for the guarantee, but with strict limits set on the level of liabilities that can be guaranteed, restrictions on the bank and requirements to report appropriately. Beyond this three-year transitional period, the liabilities will run off rapidly.

Third, the Government wished as far as practicable to achieve the sale of all of the bank's assets and the transfer of all its liabilities to the purchaser. These preferences have been achieved with only very minor exemptions from the sale, being the land and lease of the State Bank Centre at Martin Place and a relatively small subsidiary company. Fourth, the Government wished to maintain the bank as a viable independent entity. The sale to Colonial Mutual provides the best opportunity for the bank to grow as an independent fifth force in Australian banking. This sale preserves, and indeed enhances, competition in the banking industry rather than reduces it. Under the contract, Colonial cannot resell the bank for a three-year period after the sale. Further, it has rejected suggestions by the Opposition to date that it would seek to sell the bank after three years. Indeed, it has publicly stated its intention to enter banking for the long term.

A key element in providing for a positive future for the bank is that Colonial sees the acquisition as an important part of its strategy to expand nationally in the long term, particularly on the eastern seaboard, and to provide a full range of financial services to its customers. Fifth, the Government wanted the maintenance as far as practicable of existing staff and branch structure. Colonial has fully reviewed the bank's current strategy and advises that it endorses it. The bank's management and board have advised the Government that the prospects of the bank are enhanced by the transfer of ownership. It has advised, and Colonial Mutual has confirmed in the sale contract, that the outlook for both staff and branch numbers is at least as good, if not better, under Colonial ownership than would have been the case under continuing government ownership.

There are contractual commitments on the minimum level of staff and branch numbers and an agreement that there will be no country branch closures in the next three years. Sixth, the Government wished to maintain the bank headquarters in Sydney. The sale contract requires that the headquarters of the bank remain in Sydney for a five-year period. Colonial Mutual has also advised that it has no plans beyond this period for any move of the headquarters. Seventh, and finally, the Government wished to have if possible an opportunity for participation by the public of New South Wales in the ownership of the privately owned bank. Colonial is planning to demutualise over the next three- to four-year period and will do so by the issue of shares in a public float. Colonial Mutual has advised the Government that it will provide an opportunity for New South Wales residents in general, and bank staff and customers in particular, to participate in any such share issue.

It is abundantly clear that the Government has been able to achieve its preferred terms of sale while also meeting its objective of achieving a fair value for the bank. I call on the Opposition to nominate which of the preferred terms I have just outlined it would be prepared to sacrifice in the pursuit of a potentially higher price. I turn now to the second key objective of the sale, which was to enhance the competitive position of the bank. Both the management and board of the bank have advised the Government that the business prospects of the bank will be enhanced by the transfer of ownership from the Government to Colonial. They advise that the sale to Colonial represents the best option available for private ownership. The business focus of both the State Bank and Colonial are complementary, with both seeking to be providers of financial services along the eastern seaboard.

Colonial's major customer base is in Victoria, although it does have about 30 per cent of its clients in New South Wales. The State Bank, of course, has the major proportion of its customers in New South Wales. The opportunity for cross-selling and expansion of each institution is obvious from this fact alone. Together the two organisations will have access to a total customer base of nearly three million people. The sale to Colonial Mutual also provides an opportunity for the bank to appropriately capitalise to finance its future growth. Under continued government ownership there are no prospects for a capital injection, which poses a difficulty for the bank in achieving growth in its market position.

Sale of the bank also provides a clear strategic direction for the bank which would not be possible under continuing public ownership. If the sale does not proceed now, the bank will be placed in an intolerable position. It will not be able to plan its future

strategy, it will not be able to retain its key staff and it will certainly be extremely difficult to retain its customers. This is the fate to which the Opposition would consign the State Bank. There is no doubt that the sale of the bank under the terms proposed will improve the competitive position of the bank rather than leaving its future direction in the balance for at least a few more years yet.

The third objective of the Government, a vitally important objective, is to strengthen the State's financial position. The sale of the bank will enable the phase-out of at least \$19 billion in government guaranteed liabilities, an exposure that is not able to be diversified or hedged against under public ownership. It must be stressed that the level of financial risk contingent on ownership of a bank by a government has considerably increased in recent years due to two factors. First, financial deregulation has increased the competitive pressures in the marketplace and made it more difficult to achieve an adequate profit without increased risk. Second, the transfer of the regulatory powers over the bank to the Commonwealth has removed a competitive advantage that was enjoyed in the past by the bank when it was exempted from the Commonwealth's prudential supervision.

The Government's financial adviser, Bankers Trust, advises that the sale of the bank provides a clear and significant advantage to the State. The sale will enhance the State's financial position, reduce risk and improve the credit standing of the State. There is no doubt that the sale of the bank on the terms proposed will achieve each of the Government's objectives and will provide an enormous benefit to the people of this State now, not at some indeterminate time in the future.

The sale is a realistic solution to the inescapable need for all governments today to get out of banking. The sale is a realistic solution for all stakeholders. It is realistic for New South Wales taxpayers, who will extract themselves from a \$19 billion liability on which they are currently forgoing at least \$100 million revenue opportunity each and every year. It also assists the taxpayers by strongly reinforcing the State's AAA credit rating. It is a realistic solution for State Bank employees, who will be working for a bigger, financially stronger, more competitive and diverse organisation. Their career prospects would be as good, if not better, under this proposal than if the bank remained under government ownership. Finally, it is a realistic solution for the bank's customers and indeed for the customers of all bank services.

Initially, bank customers will not see any difference. It will be simply the same bank with a new owner, with the government guarantee remaining on deposits. Over time, though, customers will benefit through being served by a bank that has increased competitive capacity and a wider range of products and services. Furthermore, the maintenance of the bank as a separate independent competitive force benefits bank customers not only in New South Wales but in the whole of Australia. The sale preserves and enhances competition.

The Opposition has claimed to support the concept of the sale of the bank but would have us believe that it would be desirable to defer the sale. The decision to defer the sale can only be justified if there is strong evidence to support the view that the sale value can be increased in the future by at least \$100 million a year over and above commercial profitability levels for every year the sale is deferred. Let me put that simply. If the Opposition supports deferral for three years, it is saying it can substantiate, in a credible, financially prudent way, that the future sale price will be at least \$300 million higher than the sale price being presented to Parliament today.

Australia's leading investment bank, Bankers Trust, cannot advise that this can be achieved. The Opposition is clearly in fantasyland when suggesting that it could. It must be stressed that the sale price provided by Colonial has been provided in a competitive environment and, as advised by Bankers Trust, takes account of the prospects for improved profits in the future. In other words, it takes account of the potential for increased profits that the Opposition says we should wait for before selling. The Opposition is clutching at political straws by calling for a delay in the sale. Deferral is not realistic. Deferral would place the bank in an intolerable position, destroying any basis for it to plan for the future and putting pressure on retention of staff and customers.

Much has been said about the desirability of a public float of the bank. Let there be no mistake: this Government would be delighted if it could achieve a public float of the bank. However, such an approach is not possible in 1994 and is only a remote possibility in 1996 or 1997. To support a float you would have to be very confident of achieving a price several hundred million dollars higher than that currently on offer. Such a prospect would appear distinctly unlikely, particularly bearing in mind the wide range of attractive bank shares already on offer in the marketplace.

Furthermore, I have been advised that prior to any public float the bank would require major restructuring and significant rationalisation. As I said earlier, to delay this sale amounts to nothing more than a punt, a gamble, compared to a realistic, fully negotiated deal that sits on the table here today. Is this House about taking punts or taking the realistic course of action? Which is in

the best interests of the people of New South Wales? I am confident that the sale of the bank on the proposed terms is the best available solution. It is the realistic solution. Deferral of the bank sale to a future year is not realistic and could consign the bank to the fate of withering on the vine.

I am pleased to see that an upper House representative of the Opposition finally, if somewhat belatedly, accepted our invitation to take a detailed briefing on the sale from Treasury and Bankers Trust. It was not before time. However, the Opposition has already categorically said it will block this sale. This must surely raise questions about the level of sincere and rational discussion we can expect from the other side of the House on this issue. I feel compelled to make some comment about the misleading and uninformed remarks already made that have come from members of the Opposition outside this Chamber.

The Opposition has mounted a disgraceful campaign against this sale. It has employed tactics akin to those used by the Labor Opposition in Victoria to sabotage the float of the Victorian TAB. It has had no regard to the financial realities of the sale process and has sought to influence the debate without making any effort to familiarise itself with the details. It has scaremongered on jobs, lied about the future of the bank, undermined the sale process, misrepresented the sale details, cast aspersions on the purchaser's long-term commitment and ridiculed the State Bank of New South Wales.

Members should bear in mind in the course of this debate that since November, before it was even known what bids would be received or from whom, the Opposition has committed itself to opposing this bill. In fact, it made every effort to stop the sale getting this far. In doing so, it has shown contempt for the taxpayers of this State in expecting them to continue carrying an unnecessary financial burden. It has shown a complete disregard for the future financial wellbeing of the State Bank in seeking to deprive it of an opportunity to grow under private ownership. And it has displayed absolute disdain for the business community and the market by questioning their ability to determine a fair price for the bank.

When the Opposition claims the sale should be deferred, it is not thinking of the good of the taxpayer, the bank, the customers or the employees. It is thinking of its

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own political ends. By contrast, the Government considered all these groups in framing this sale agreement. With six months or less to the election, some commentators are telling us to take the easy option - to delay the sale until after the election. That easy option would deprive the people of this State of the opportunity to better apply the financial resources that support the State Bank guarantee in that time. That easy option would mean that instead of moving forward, the bank would simply tread water. This is the easy option favoured by the Opposition, which shows that when it comes to the tough, responsible financial decisions, you cannot bank on Bob Carr. What the people of New South Wales can bank on is that this Government will not take the easy option. We have pursued the sale at a time when, politically, it would be easy to let the bank's future drift for a few more years. We on this side of the House, in introducing this bill, have delivered a sound and realistic solution. I commend this bill to the House.

The Hon. M. R. EGAN (Leader of the Opposition) [5.05]: The Opposition opposes the bill. Of course, the die is cast. An article in this morning's *Sydney Morning Herald* by Mark Coultan, the paper's political correspondent, informed us that the Premier announced last night that he had indications from Reverend the Hon. F. J. Nile and the Hon. Elaine Nile, who hold the balance of power in this House, that they would support the sale. It seems that the result of this debate is a forgone conclusion. Nevertheless, the sale of the State Bank will certainly be the last great act of financial vandalism by the outgoing Fahey Government.

The Hon. Dr B. P. V. Pezzutti: Your holding it up will be.

The Hon. M. R. EGAN: The Opposition is not holding up this matter.

The Hon. Dr B. P. V. Pezzutti: You have already.

The Hon. M. R. EGAN: We have not held it up already at all; that is sheer nonsense. The Hon. Dr B. P. V. Pezzutti, or Tutti Frutti Pezzutti as he is known on the north coast -

The DEPUTY-PRESIDENT (The Hon. Dr Marlene Goldsmith): Order! I remind the Leader of the Opposition of the standing orders. It is not customary to call members of the House names.

The Hon. M. R. EGAN: With the greatest of respect, Madam Deputy-President, I did not.

The Hon. Dr B. P. V. Pezzutti: I ask that the comment be withdrawn. I have never heard anybody call me Tutti Frutti Pezzutti.

The Hon. M. R. EGAN: The Liberal Party State Conference, or whatever meeting it is that preselects Liberal Party candidates for election to this House, did us all a favour a few weeks ago when it re-elected the Hon. Dr B. P. V. Pezzutti, Tutti Frutti Pezzutti, as he is known on the north coast. Life would not be the same without the benefit -

The DEPUTY-PRESIDENT: Order! I have heard enough on the point of order. The Leader of the Opposition will withdraw.

The Hon. M. R. EGAN: I was not speaking on a point of order, Madam Deputy-President, but out of respect for the Chair I shall withdraw.

The Hon. Ann Symonds: That's crazy.

The Hon. M. R. EGAN: It is crazy, because I did not refer to the Hon. Dr B. P. V. Pezzutti in those terms. I shall not argue the point. The Hon. Dr B. P. V. Pezzutti always provides comic relief in the House. It was good to see that his Liberal Party colleagues preselected him for another term in the Parliament. The article by Mark Coultan in this morning's *Sydney Morning Herald* stated:

The Independent MP for the South Coast, Mr John Hatton, who initially indicated opposition to the sale, said one of the things which had changed his mind was that Mr Harris had said that even if the bank made \$300 million a year profit in the future, it was still financially better for the State if it was sold now.

The Auditor-General is saying that it would be better for the State to sell the bank now for \$576 million, even if the bank were making \$300 million a year. That is ludicrous. Who would sell a business making \$300 million a year for \$576 million? Who would make such a silly deal as that? Admittedly the State Bank of New South Wales is not making \$300 million a year. According to Mr Hatton, the Auditor-General is saying that even if the bank were making \$300 million, under his methodology he would still advise that the bank be sold. When all the sophisticated calculations that have been made by consultants and by the Auditor-General produce such a nonsense result, they should question the methodology they have used.

If I did not know Mr Hatton, and if I had not had the benefit of a briefing yesterday from the Auditor-General, when I read the comment in this morning's paper I would have thought to myself, "This Hatton fellow is telling lies". But I do know Mr Hatton, and I know he does not tell lies. Honourable members will recall that in the terms of reference of the resolution passed by the Legislative Assembly, which was sent to the Auditor-General, he was asked to examine and report to the lower House on the range of anticipated profits of the bank in the near and medium-term future.

[Interruption]

I am sorry, I cannot even understand the mutterings of the Hon. J. F. Ryan from the backbench. There is some interference.

The DEPUTY-PRESIDENT: Order! The Leader of the Opposition will address the Chair.

The Hon. M. R. EGAN: There is some interference from the Hon. Dr B. P. V. Pezzutti which is masking the interjections of the Hon. J. F. Ryan. It was with some disappointment, therefore, that when the Auditor-General's report was released last Friday that information, which had been specifically requested by the lower House in its terms of reference, was not contained in the report. On Monday I had the opportunity of a private briefing from the Auditor-General and I learned from him that the bank was projecting a profit this year

of more than \$100 million and was projecting profits in two years - that is in 1996-97 - of between \$210 million and \$280 million.

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The Hon. J. F. Ryan: In a privatised state.

The Hon. M. R. EGAN: No, in its current state. They are the bank's projections. Indeed, they are the projections of profit that the Auditor-General used in arriving at his calculations of the bank's retention value. I would not want to suggest by that comment that the Auditor-General was adopting those profit projections. He certainly was not saying that the bank would make that profit if the assumptions he was making came true. He was saying they were the bank's projections and that, using those projections, the calculations that CS Boston and he, as Auditor-General, undertook to establish the bank's retention value showed that the bank had a retention value of less than \$576 million. My response to that is there is something wrong with the methodology. There is something radically wrong with a methodology which says an organisation that is making \$280 million a year has a retention value of \$576 million or less. An organisation, particularly a bank, listed on the stock market and earning \$280 million a year, would have a stock market valuation well in excess of \$2,000 million.

The Hon. Dr B. P. V. Pezzutti: But it is not.

The Hon. M. R. EGAN: Of course it is not on the stock exchange. I am simply pointing out that if the bank were on the stock exchange -

The Hon. Dr B. P. V. Pezzutti: Oh, if!

The Hon. M. R. EGAN: That is right, if. If the bank were listed on the stock exchange and were making that sort of profit, it would have a stock market capitalisation of between \$2,000 million and \$2,800 million.

The Hon. Dr B. P. V. Pezzutti: How did the accountants get it so wrong?

The Hon. M. R. EGAN: Precisely. There has to be something wrong with the methodology to say that a bank earning \$280 million is worth less than \$576 million. I will explain the methodology. The Auditor-General uses a discount rate of 18.9 per cent but he does two other things. First, he does not take into account any of the profit of the bank which goes in taxation. Tax that a privately owned bank would pay to the Commonwealth Government is paid by a State Government-owned bank to the State. For the purposes of the Auditor-General's calculations, one third of the bank's profit would be deducted. That is revenue which the State Government receives through taxation. The cost of the State Government's guarantee for the bank has been estimated by the Government as a cost to the taxpayers of New South Wales of \$100 million a year. Presumably that means that the profit of the bank in this last financial year -

The Hon. Dr B. P. V. Pezzutti: Your mates in the Commonwealth are going to make a great profit out of this sale. They are going to be able to tax it.

The Hon. M. R. EGAN: Yes, they will do very well. We will not have that revenue for our schools, hospitals or roads. The Hon. Dr B. P. V. Pezzutti for some reason did not want me to talk about the Government's claim that the Government guarantee of the bank's deposits was costing the State \$100 million a year. That cost was given a net present value - in other words a cost to the State - of \$300 million. The State Bank has been in existence for four or five decades; I think it is at least 50 years old. Has this cost been paid out of the budget in any of those 50 years? Have we ever had to appropriate \$100 million a year or anything like it - or indeed anything - for this guarantee? Of course we have not.

The Hon. R. S. L. Jones: It is a notional cost.

The Hon. M. R. EGAN: It is a notional cost, as the Hon. R. S. L. Jones points out. Likewise, when the bank is sold, even if the guarantee were to disappear overnight - and I will return to that later, because under the terms of the sale it does not - does anyone seriously suggest that there is an additional saving of \$100 million for the State? Where will it appear in the budget papers?

The Hon. R. S. L. Jones: It will not appear anywhere.

The Hon. M. R. EGAN: Of course it will not appear, just like the cost of \$100 million per annum has never appeared before. It is a complete nonsense to include that \$300 million in the calculation of the bank's retention value; it is a nonsense to ignore the tax revenue which this State Government receives from the earnings of the bank; and it is a nonsense to think that 18.9 per cent is an applicable discount rate.

The Hon. D. J. Gay: What sort of economics are you running? You still receive government tax if someone else owns it.

The Hon. M. R. EGAN: The State does not get the tax. The New South Wales Government does not get it. I am not talking about FID; I am talking about income tax. This is about an income tax equivalent of \$40 million this year from the State Bank. The State will not get that next year.

The Hon. D. J. Gay: The Leader of the Opposition should clarify what he is saying.

The Hon. M. R. EGAN: It is clear what I was talking about. The Hon. D. J. Gay is embarrassed because his interjection was inane.

The DEPUTY-PRESIDENT (The Hon. Dr Marlene Goldsmith): Order! The Leader of the Opposition will address the Chair.

The Hon. M. R. EGAN: This House has a long tradition of impartiality from the Chair.

The Hon. Franca Arena: And robust debate.

The Hon. M. R. EGAN: And robust debate, and I am sure that that will continue. As to the cost of the guarantee, I must ask where the saving will appear in the State budget. It simply will not appear. That explains the retention value of \$576 million or less, as the Auditor-General said. It is arrived at by an 18.9 per cent discount rate, a \$300 million net

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present value of the so-called cost to the Government of the guarantee, and the exclusion of the tax revenue to the State Government from the calculations. When the methodology shows that an organisation based on a profit of \$280 million a year is not worth \$576 million, common sense should tell one that something is wrong with the calculations. It is worth pointing out that the Chairman of the State Bank recently drew attention to the view of the bank's board that it is not a fair price.

The Hon. R. S. L. Jones: In the technical term.

The Hon. M. R. EGAN: That is right. Indeed, that information would not have been revealed if a question had not been asked at the press conference on Friday when the bank released its annual report. That matter should have been included in the information provided to Parliament. It is all very well to take a snapshot of the bank and say that the sale price is reasonable in November 1994. The snapshot that we are looking at is the recent performance of the bank. I shall quote from page 13 of the special audit report of the Auditor-General:

The underlying earnings of the State Bank (earnings before provision for doubtful debts) has reduced over the past five years, and the 1994 earnings as a proportion of assets is around half that of regional bank peers. At the same time, the State Bank has had to

provide large provisions for expected loan losses. They have absorbed about 90 per cent of the State Bank's underlying earnings over the same five years.

That is the current position of the State Bank. It has been underperforming for a number of years. The bank has not been achieving the return it should have been or a return comparable to that of other regional banks. However, it is being sold on the basis of that performance, and that is why the best price that has been offered is \$576 million. I shall compare the performances of some of the State Bank's regional bank competitors. The St George Bank Limited has assets of \$15,000 million, compared with \$19,000 million for the State Bank, and has shareholders' equity of \$744 million, compared with \$699 million for the State Bank. The St George Bank has a current stock market valuation of more than \$1,000 million. The latest figures I obtained from the stock exchange were the July figures.

Reverend the Hon. F. J. Nile: The difference is between private enterprise and enterprises that have a relationship with governments.

The Hon. M. R. EGAN: No, I am looking at the value of the bank. The value of the bank, whether it is privately owned or Government owned -

Reverend the Hon. F. J. Nile: Why did you choose the St George Bank?

The Hon. M. R. EGAN: The St George Bank is a successful organisation. It has assets -

The Hon. D. J. Gay: The Leader of the Opposition should get on with his speech and read the final three paragraphs on page 13.

The Hon. M. R. EGAN: The Hon. D. J. Gay should go back to sleep and let me answer the interjection from Reverend the Hon. F. J. Nile. I shall reply to the interjection of the Hon. D. J. Gay later.

The Hon. D. J. Gay: Read the final three paragraphs on page 13.

The Hon. M. R. EGAN: I have read the final paragraphs. They are consistent with the point that I am making.

The Hon. D. J. Gay: No, they are not.

The Hon. M. R. EGAN: Does that mean that a whole paragraph - not a sentence or a few words - cannot stand on its own?

The Hon. D. J. Gay: That is right.

The Hon. M. R. EGAN: That is a foolish suggestion.

The DEPUTY-PRESIDENT: Order! I remind the Hon. D. J. Gay that he will have an opportunity to contribute to the debate if he so wishes. I remind the Leader of the Opposition again of the requirement for members to address the Chair and not members on the side of the Chamber opposite them.

The Hon. M. R. EGAN: It is also common for honourable members to reply to interjections.

The DEPUTY-PRESIDENT: Order! It is customary for a member to reply to interjections if the member chooses. However, when doing so, the member should address the reply through the Chair.

The Hon. M. R. EGAN: I was replying to the interjection from Reverend the Hon. F. J. Nile, who seems to think that there is some reason that the St George Bank, being a privately listed bank on the stock exchange, should have a different value to that of the State Bank. Certainly the difference in value is a reflection of the

different performances of the banks. I have no quarrel with that. However, the value of the bank is what the buyer will pay. Of course, that is an indication not only of the asset base of the bank but of its shareholders' equity. Perhaps more importantly, it is a reflection of the profit performance of the bank. In the last financial year for which there is a report the St George Bank recorded a profit of \$92 million. On the basis of that, its stock market valuation is more than \$1,000 million.

My point simply is that the State Bank has a bigger asset base. It has shareholders' equity of almost the same amount as the St George Bank; it is about 10 per cent less - \$699 million compared with \$744 million. The recent profit performance of the bank has been poor, compared with that of the St George Bank. In the last financial year the State Bank profit was \$70 million, compared with the last reported profit of the St George Bank of \$92 million. If one looks at all those factors, one cannot say that the State Bank of New South Wales should have a value of less than half that of the St George Bank. The State Bank will perform comparably to the St George Bank.

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The Hon. R. S. L. Jones: Which it will do.

The Hon. M. R. Egan: Which it will do, under both private ownership and the continuation of public ownership, now that the disastrous loan portfolio of the late 1980s and early 1990s is receding into history. This year the State Bank of New South Wales made an operating profit of \$160 million, before provision for bad loans of \$90 million. That left a net profit before tax of \$70 million. The operating profit of \$160 million did not come out of the blue. Indeed, it was a slight decrease compared with the bank's operating profits over the previous five years, because the operating profits over the previous five years totalled slightly more than \$1,000 million. The reason for the final pre-tax profit being so abysmal is the loan portfolio which the bank entered into in the late 1980s and early 1990s, and which it has been paying off ever since.

Reverend the Hon. F. J. Nile: It may be worse than you believe.

The Hon. M. R. EGAN: We are told that it is not.

The Hon. R. S. L. Jones: It has been thoroughly examined.

The Hon. M. R. EGAN: One assumes due diligence on the part of the purchaser. We have been told that various other due diligence exercises have been carried out to ensure that the bank is adequately provisioned, although there was speculation in the press this morning that the Auditor-General, as part of his report, is implicitly arguing that the bank is about \$100 million underprovisioned.

The Hon. R. S. L. Jones: No, he does not argue that. He refutes that argument.

The Hon. M. R. EGAN: Some people say that it is implicit in his reasoning. I will leave that argument to others. If the bank were underprovisioned by \$100 million -

The Hon. R. S. L. Jones: Which it is not, by the way.

Reverend the Hon. F. J. Nile: Which it could be.

The Hon. M. R. EGAN: Whether it is or whether it could be is not the point I am trying to make.

Reverend the Hon. F. J. Nile: Going by customer reports, too.

The Hon. M. R. EGAN: I am not sure what Reverend the Hon. F. J. Nile means by that. The point I am making is that the bank is a fair way down the track from its disastrous experience of corporate entrepreneurial lending. Normally, as time goes on and as provision is made for failed loans, the need for further provisioning

would decrease. An article in this morning's *Australian Financial Review* stated that anticipated provisioning for this financial year will be \$70 million, down from \$90 million in the previous financial year. By next year it will be down to \$50 million and \$50 million the year after. That is the magnitude of lost provisioning one would expect from a bank the size of the State Bank with a normal loan portfolio: the normal share of good loans and bad loans rather than the aberrant level of bad loans in the 1980s and 1990s from which the bank is suffering.

In the past five years, up until this year, the bank made operating profits of more than \$1,000 million, an average of \$200 million. If that were to continue and if the provisioning for bad loans were to return to the historical norm, one would take a profit of at least \$150 million a year without any significant change to the strategy or the management of the bank, or its volume of business. Even if the bank's profit projections of up to \$280 million in two years time are wildly optimistic, on its current performance, past operating profits and loan provisioning, and anticipating how that will decline, it is reasonable to assume that without any improvements the bank will chalk up profits of about \$150 million a year.

The Hon. R. S. L. Jones: From the new home loans, when they convert to the variable rate.

The Hon. M. R. EGAN: For whatever reason. It will be a profit comparable to that of the St George Bank Limited.

The Hon. D. J. Gay: Actually, it aspires to have better.

The Hon. M. R. EGAN: Yes, it does; it aspires to have a lot better. The St George Bank, with a profit of \$92 million, is valued on the stock market at \$1,097 million. The bank because of its size and its recent operating profit performance has the capability of turning in a profit well in excess of \$100 million - if the bank's projections are correct, up to almost \$300 million - yet the Government is selling it not for \$1,000 million, which is the value of the St George Bank, but for \$576 million. That is really the headline price.

Reverend the Hon. F. J. Nile: You can only sell a bank for what you can get for it.

The Hon. M. R. EGAN: Sure, but when it has reasonable profit performance one could get a lot more for it.

The Hon. D. J. Gay: You cannot have it both ways.

The Hon. M. R. EGAN: It has the capacity to return a greater profit. The only reason its profit performance has been low is its experience in the late 1980s and the early 1990s with bad loans, provisioning for which has been eating into profits.

Reverend the Hon. F. J. Nile: If it is so simple to you, why did other companies not offer \$1 billion for the bank?

The Hon. M. R. EGAN: Perhaps they might have, if they had known that they would benefit from the guarantees, the warranties and the indemnities finally offered to Colonial Mutual Life. The question

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that the Auditor-General has not answered, that the Treasurer has not answered and, to my knowledge, no-one has answered, is whether all the initial bidders were given the benefit of those guarantees, those warranties and those indemnities.

The Hon. Dr B. P. V. Pezzutti: Nobody has rushed into print.

The Hon. M. R. EGAN: Because all bidders signed an agreement that the bidding process was confidential, but there are a lot of indications that all bidders were not offered the same guarantees, the same warranties and the same indemnities. If that is wrong, I am sure that the Minister for Energy, and Minister for

Local Government and Co-operatives will be able to tell honourable members it is wrong. But thus far neither the Auditor-General nor the Treasurer - in fact, no-one - has told us that, which may explain, and I believe does explain, why ultimately there was only one bidder. The snapshot of the bank upon which the sale price was determined as reasonable was taken in November 1994, but the snapshot shows that the Bank of New South Wales has been the worst performing regional bank in Australia. The Government, through its ineptitude and utter incompetence, has turned the fifth largest bank in Australia into a lemon. Now it wants to sell the lemon instead of selling a bank, and the Auditor-General's findings must be seen in that light.

The Hon. D. J. Gay: Which bank are you referring to when you say the "Bank of New South Wales"?

The Hon. M. R. EGAN: I am talking about the State Bank of New South Wales.

The Hon. D. J. Gay: You said the Bank of New South Wales.

The Hon. M. R. EGAN: I said the State Bank of New South Wales. If you want to quibble -

The Hon. D. J. Gay: I do. The Bank of New South Wales is Westpac.

The Hon. M. R. EGAN: The Hon. D. J. Gay usually makes more intelligent interjections and comments than the inane interjections and the quibbling honourable members are hearing from him today. There is no such thing any more as the Bank of New South Wales.

The Hon. D. J. Gay: Exactly. That is why I needed you to qualify it.

The Hon. M. R. EGAN: The Opposition has always been keen to ensure that the taxpayers of New South Wales receive the maximum sale price for a potentially valuable asset, a well-performing bank, but that is not what the Government is selling. It is a bad time to put the bank on the market, because most potential buyers are trying to restore their balance sheets from the ravages of the recession and their lending miscalculations before embarking on new acquisitions. It is the wrong time to sell, because the bank is not in a fit state to be sold. The State Bank of New South Wales is Australia's fifth largest bank and the third largest bank operating in New South Wales. It is potentially a valuable asset. But its recent performance has been poor.

KPMG Peat Marwick's 1994 financial institutions performance survey, which compared the State Bank with the other nine regional banks, found that its overall ranking had deteriorated from ninth position to tenth position. According to KPMG Peat Marwick, the State Bank of New South Wales is Australia's worst performing regional bank. Its survey showed that of the 10 regional banks, the State Bank ranked tenth worst in major credit quality measure write-offs as a proportion of loans, tenth in increase in profit before tax, and tenth in return on net assets.

Reverend the Hon. F. J. Nile: How can that be the fault of the Government?

The Hon. M. R. EGAN: I will come to that. Essentially because the Government stood by while the bank ventured into wholesale and corporate banking. I was concerned earlier by comments in the annual reports of the bank about the need to reduce the number of its loans that exceeded 10 per cent of its capital. I must admit that it was not until about three years ago, when I started to examine the performance and position of the State Bank and began to read annual reports going back a few years, that I became aware of that. It terrified me. It was a recipe for disaster for the State Bank of New South Wales, or any other bank, to have a large number of individual loans exceeding 10 per cent of its capital base. The government of the day should have monitored what was happening in the bank.

Reverend the Hon. F. J. Nile: Was that when Nick Whitlam was the boss?

The Hon. M. R. EGAN: No. As I understand it, Nick Whitlam left the bank in 1987 with a clean loan

book. I understand that a very large loan dating from his time was repaid before he left as managing director of the bank. I do not think there was any suggestion - at least any sensible suggestion - that the bank's portfolio of loans predated 1987. The bank's practice of making large loans, exceeding in each case 10 per cent of the bank's capital value, was a recipe for disaster. The Government, which should have been monitoring the bank's performance, should have identified that practice as being contrary to the purpose of the State Bank.

Essentially, the State Bank should be a retail bank meeting the banking needs of ordinary people, home buyers and owners of small to medium businesses. Banks that catered for those needs rode through the recession and came out of it with flying colours. The banks that went into large corporate lending got themselves into the mess that so many did, including the State Bank of New South Wales. Loan write-offs exceed \$1,300 million. That is why there have not been significant profits flowing from the bank to the coffers of the State Government. That is why the bank has been a poor performer and why the Government has to take much of the blame for its

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performance. Economics commentator Max Walsh argued on the day the sale was announced that last year the State Bank had the tenth worst profit performance of the top 500 banks in the world. That performance is abysmal.

The Bankers Trust report on the sale of the State Bank also confirmed that, under the coalition Government, between June 1989 and March 1993 the State Bank lost at least \$1.1 billion, not including lost interest and fees on non-performing loans. In answer to an interjection from Reverend the Hon. F. J. Nile, I said that the Government did nothing to stem these massive losses. It was not as though the Government was not aware of concerns about the bank's performance. Percy Allan, the former head of Treasury and a member of the bank's board, approached the Government in the very early 1990s and requested the Government to establish external due diligence on the bank. The Government knocked him back. A great part of the responsibility for the bank's recent shocking performance rests entirely on the shoulders of the Government. The Government's main stated reason for selling the bank is to rid itself of the \$19 billion State Government guarantee of the bank's deposits and debts. On the day of the sale the Treasurer said:

The central reason for selling the Bank and selling it now is that currently NSW taxpayers are carrying a liability through their guarantee of \$19 billion in Bank deposits and debts.

If that is the Government's central reason for selling the bank, and selling it now, that only demonstrates the degree to which the people of New South Wales are being misled and shortchanged by the Government over the bank's sale. There is no reason to sell the bank in order to remove the liability of the \$19 billion guarantee from the taxpayers of New South Wales. The Government, under its own State Bank (Corporatisation) Act, has had the power since 1989 to gradually phase out the guarantee -

The Hon. D. J. Gay: Labor left the coalition with a debt of \$19 billion.

The Hon. M. R. EGAN: The liabilities of the State Bank total \$19 billion.

The Hon. D. J. Gay: The former Labor Government left New South Wales with a debt of \$19 billion.

The Hon. M. R. EGAN: Does the honourable member know what the debt is now?

The Hon. D. J. Gay: I am told the debt left by Labor was \$50 billion.

The Hon. M. R. EGAN: The honourable member is now talking about total liabilities, which were \$48 billion and are now about \$56 billion. The Government has added \$8 billion in liabilities. The Hon. D. J. Gay should not go on with that sort of nonsense. He illustrates his ignorance of what I am talking about by confusing liabilities with State debt. I am talking about the liabilities of the State Bank and the government guarantee for those liabilities. Under the State Bank (Corporatisation) Act, since 1989 the Government has had the power to gradually phase out the guarantee as term deposits, debentures and other financial arrangements

entered into by the bank have matured. The Government's central reason for selling the bank falls over. The Government has chosen not to exercise a power given to it by this Parliament to effect the removal of the guarantee by proclamation, but the Treasurer's trumped up explanation of the urgency for the sale leaves him exposed to more serious accusations of financial incompetence.

If the Government's real reason for the sale is to unload the \$19 billion contingent liability, this sale does not achieve that, at least not until the year 2004 - about 10 years away. Only then will the State's liability totally cease according to the agreement with Colonial Mutual Life. The Treasurer's own State Bank sale briefing notes show that in three years time the Government's guarantee will still be around \$15 billion. That is an outrage, given the persistent indications by the Premier and the Treasurer that the sale would immediately relieve the State of \$19 billion in contingent liabilities. In his 1993 Budget Speech the Treasurer argued:

The single most significant financial decision that could be made by any Government to reduce the financial risks to the people of this State would be to lift this [\$19 billion guarantee] burden from the people of New South Wales and to leave the banking industry, including the State Bank, to the private sector.

In the *Daily Telegraph Mirror* on 27 March, the Treasurer argued that one of the Government's sale preconditions was that the purchaser should accept all assets and liabilities of the State Bank. The Treasurer said on 7 September, "When we sell the State Bank we get rid of \$19 billion in contingent liability". The Government's fire sale of the State Bank to CML, however, breaches the Government's own preferred terms of sale. Although the Government has had the power to withdraw the \$19 billion contingent liability progressively since 1989, it has chosen not to do so. Instead, it has argued that the main reason the State Bank must be sold now is to immediately relieve New South Wales taxpayers of the guarantee. Yet the proposed sale breaches the Government's own preferred sale terms that the purchaser should accept all the bank's assets and liabilities and contradicts the Government's repeated suggestions that upon the sale of the bank the State will immediately be free of its contingent liability. Clearly, it will not. No wonder the *Australian Financial Review* on 28 September argued that CML had pulled off a coup by gaining Cabinet endorsement for significant government involvement in the bank's risk profile!

What has the Government thrown into the deal? It will guarantee all current liabilities, including contingent liabilities for the next three years, any new funding liabilities and off-balance sheet liabilities incurred in the next three years and the bank's \$350 million in extendable floating rate notes for five years. It will indemnify CML for 90 per cent of any bad loans over a threshold of \$60 million in addition to those already identified and reimburse CML for the

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cost of management expenses in respect of non-performing loans and any interest shortfall of all the bank's non-performing loans. In other words, if a Skase or a Bond has a State Bank loan which they are not servicing, the taxpayers of New South Wales will pick up the funding shortfall for that loan notwithstanding that the Government does not own the bank anymore. But there are more guarantees.

Reverend the Hon. F. J. Nile: You are making my point that there could be other hidden bad loans.

The Hon. M. R. EGAN: Of course there could be. Certainly beyond the additional \$100 million provisioning need, which some say is implicit in the Auditor-General's report, it is unlikely that there will be any further demand for provisions to cover failed loans. But there could be further hidden bad loans; we do not know. That raises an important point: in one sense we are selling off the bank, but we are really selling off the operating profits. The failed loans beyond \$60 million will be the responsibility of the New South Wales taxpayers - that is, in respect of the bank's existing business. In addition to the funding cost of non-performing loans and the indemnity for failed loans, New South Wales taxpayers will also be liable for a number of other costs, including rent subsidies on the State Bank Centre and indemnities for contraventions of the Credit Act, which could be substantial.

Some type of calculation has been done on those costs, and a figure has been put upon them in the Auditor-General's report. As Reverend the Hon. F. J. Nile rightly says, there is no absolute guarantee that the

figure contained in the report will be the figure the Government will be responsible for. It may be getting rid of the bank, but it will remain liable for those costs. Under the terms of the sale agreement the Government holds that responsibility, and it will not have the benefit of the operating profits to pay for any indemnities or for contraventions of the Credit Act. The CS First Boston report and the Auditor-General's report contain a calculation of what the taxpayers' responsibility may be but, again, that is only a guesstimate - it might be an intelligent guesstimate, but it might be completely wrong. For example, there is one claim of \$66 million against the State Bank.

Last week the *Daily Telegraph Mirror* referred to that claim when it reported the bank's latest annual report results. The newspaper reported that the bank had shrugged it off. Subsequently, I received a phone call from the claimant who tells me that contrary to what was said in the press conference last week, he is pursuing the claim and believes it has a good chance of success. If that one claim of \$66 million succeeds, CML will not pay it; under this agreement the taxpayers of New South Wales will continue to bear that cost. Likewise, the taxpayers will bear the cost of indemnities for inadequate insurance - I have no idea what it is likely to be - and indemnities for building rectifications. Who knows what that is likely to be? One hopes that it will not be much.

If, for example, the bank is responsible for \$50 million in building rectifications, the taxpayer of New South Wales will pay for those rectifications from the \$576 million that was meant to pay for forgone revenue. There are also tax indemnities. There is a \$3 million subsidy to keep country branches open. At least that is a definite figure. There are numerous miscellaneous warranties. When we add up all the guarantees for failed loans, the taxpayers will be responsible for 90 per cent of anything over \$60 million that has not already been specifically provided for in the bank's current business. When all the warranties, the indemnities, the hidden costs and special arrangements are included, frankly, the taxpayers can forget about the \$576.5 million headline price; it is meaningless. I particularly draw the attention of Reverend the Hon. F. J. Nile to the terms of the contract agreement. It contains a frightening provision that the maximum cost to the Government of all the warranties, guarantees and indemnities will be the purchase price of the bank. So, in the agreement, which this legislation will authorise, the maximum cost of all these things could be the purchase price of the bank, which could effectively mean that the price for the bank is zero. When the funding cost of non-performing loans, which is not included in that provision, is added to those costs -

Reverend the Hon. F. J. Nile: It is a good argument for getting rid of the bank.

The Hon. M. R. EGAN: No. The point is that the taxpayer is up for those costs whether it is sold or retained. If it is sold, the Government is responsible for those costs without the ongoing benefit of operating profits.

Reverend the Hon. F. J. Nile: Or losses.

The Hon. M. R. EGAN: Or losses. But even with the bank's abysmal performance over the last five or six years, it incurred a loss only the year before last. From recollection, to a large extent that was due to correcting some creative accounting in a previous annual report.

Reverend the Hon. F. J. Nile: There may be some more hidden creative accounting.

The Hon. M. R. EGAN: If there is more creative accounting, the Government will pay for it regardless. If the bill is successful at the second reading stage - I assume it will be as it has the support of Reverend the Hon. F. J. Nile and the Hon. Elaine Nile - I hope that Reverend the Hon. F. J. Nile supports the Opposition's amendments to be moved in Committee. One amendment is to include in the legislation a provision that the maximum cost of the guarantees, warranties and indemnities will be \$76.5 million and, therefore, the absolute minimum amount the taxpayer will get will be \$500 million.

Reverend the Hon. F. J. Nile: They are all part of the contract?

The Hon. M. R. EGAN: We are the sellers.

Reverend the Hon. F. J. Nile: By Thursday.

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The Hon. M. R. EGAN: That is right. We are the sellers; we determine the contract. This bank is owned by the people of New South Wales, and the Government cannot sell it without the authorisation of this Parliament. It is therefore within the province of this Parliament to determine precisely what the contract will contain.

Reverend the Hon. F. J. Nile: And a \$7 million fine.

The Hon. M. R. EGAN: If Reverend the Hon. F. J. Nile wants to sell the bank and be up for all those additional costs - up to \$576 million - he will vote against my amendment, but if he wants to limit the cost to the State he will certainly support the amendment I will move in Committee. I have spoken for longer than I intended. I could comment on a number of other aspects concerning this deal, but I will leave that to some of my colleagues. I again emphasise that it is beyond belief that, on the methodology basis of a \$280 million profit - which the Auditor-General concedes he used to calculate the retention value - anyone could come to the conclusion that a bank earning \$280 million would have a retention value of less than \$576 million.

The Auditor-General tells us that he has been through and checked off the loan book of the bank - he has given that a tick - so it seems to me absolutely incredible that anyone could argue that, on the basis of a \$280 million profit, the bank has a retention value of \$576 million. It is absolute nonsense! As I said at the outset, the Government, by selling off this bank, will be responsible for this last great act of financial vandalism - an act which will deprive the taxpayers of this State of a financial institution which could have been and should be restored to health and which could have been and should be making annual profits well in excess of \$100 million.

I am not sure whether the bank's annual profit would ever reach \$300 million, but it is certainly capable of making profit well in excess of \$100 million, which would then give it a sale value well in excess of \$1,000 million. It is the view of the Opposition that, by selling the bank at this time, we are simply short-changing taxpayers to the tune of many hundreds of millions of dollars. I regret that Reverend the Hon. F. J. Nile will not join the Opposition in opposing this legislation, but I hope he will think carefully about supporting the amendment which I will be moving in Committee.

[The Deputy-President (The Hon. Dr Marlene Goldsmith) left the chair at 6.05 p.m. The House resumed at 7.45 p.m.]

The Hon. I. M. MACDONALD [7.45]: In the course of my dissertation, any interjections that come from the rabble that calls itself the Fahey Government will be greatly appreciated. I oppose the bill before the House.

The Hon. E. P. Pickering: Oh! How disappointing.

The Hon. I. M. MACDONALD: That might create some sense of disappointment for the Minister but any detailed, intelligent analysis of the proposed sale of the State Bank by the Government could arrive at only one conclusion, that the sale is most inappropriate. I take as my background in the issue a long held concern about the revenue dry gulch that privatisation is creating for all governments that go down that path. A careful analysis of the actual impact of privatisation upon governments reveals in most instances a loss of revenue, a decrease in the service level provided to the community by the new instrumentalities, or the newly controlled instrumentalities -

The Hon. R. S. L. Jones: What do you propose?

The Hon. I. M. MACDONALD: I am putting forward and listing a number of propositions, which I intend to deal with in detail. A lack of service provision is evident, which greatly diminishes the Government's ability to have control within the broader economic structure of the community. In relation to the first issue, the narrowing of the economic base, a number of major papers put forward in recent times have questioned the impact of privatisation upon the economic structure of the State, and particularly the ability of the Government to sustain revenue in a period of privatisation. Professor Bob Walker cogently argued that case in a paper presented prior to the national conference of the Australian Labor Party in Hobart earlier this year. The paper went into great detail about the revenue losses to State governments in particular, and to governments overall, of the continued push for privatisation.

I have opposed the wave of privatisation both nationally and at a State level since the mid 1980s, when it became very much a central plank of economic rationalism. It was later adopted by the more strident bean counters associated with all parties. What I find most disgraceful in the whole exercise is the question of the \$19 billion debt. Reducing overall so-called liability is raised as the holy grail of government policy. It is stated that the liability of the State Bank is some \$19 billion. The Curran report, published in 1988, was the forerunner of what is in essence false thinking about the economy of a State as applied to a national government. The Curran report stated that State debt was about \$48 billion, but analysis showed that much of that debt was never likely to be paid by the Government. The alleged \$19 billion liability said to be currently held by the State Bank is highly unlikely ever to be called in at once; it is probably even impossible.

The Hon. L. D. W. Coleman: I bet the Keating Government is going to.

The Hon. I. M. MACDONALD: Even then it is mostly asset backed, unless you write down the farm sector. I will deal with Victoria and South Australia in some detail later. Like some honourable members, I have had the opportunity to read Trevor Sykes' great book, *The Bold Riders*. Anyone who

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reads that major work in any detail will find that although the State Bank of New South Wales had some element of corporate lending in its portfolio towards the end, it did not enter into the port-of-last-recall style of corporate lending that the State Bank of Victoria and the State Bank of South Australia entered into in the late 1980s. As a consequence the State Bank of New South Wales did not face the same grave problems with its loans that were experienced by the banks mentioned by the Hon. J. F. Ryan.

Throughout most of this period a Labor government was in office in New South Wales and its standards of prudential behaviour were high. The State Bank, under the guidance of Nick Whitlam, did not enter into the sorts of programs that were initiated by the State Bank of Victoria, particularly under its finance wing, its merchant bank - Tricontinental. Nor did it enter into the same sorts of programs that were entered into in South Australia. As a consequence the State Bank of New South Wales, with its alleged liability of \$19 billion, came out in a far stronger position than most banks. So-called market leaders such as the National Australia Bank survived fairly well. Nevertheless, when compared with Westpac Banking Corporation and the ANZ Banking Group, credibility would have to be stretched to claim that the State Bank, under the leadership of the previous Labor governments, acted other than wisely and had a great idea of prudential behaviour in relation to its loan portfolio.

As a consequence, within two years of the recession the same State Bank has been able to announce profits of \$70 million and on current projections is heading towards over \$100 million. By 1996-97 it will be in profit to the tune of over \$200 million. That is based on figures presented by the Auditor-General. It is erroneous and misleading for the Hon. J. F. Ryan and his cohorts on the Government side of the House to attempt to compare the State Bank of New South Wales with the State banks in South Australia and Victoria. There are a million other points I wish to make, and of course, I will do so. I will return shortly to the question of the relative merits of the banks in various States, but I want to refer to the narrowing of the tax base.

This Government, through the sale of the GIO, has forgone revenue of several hundred million dollars a year. To attempt to compare the State Bank of New South Wales with State banks in South Australia and

Victoria is totally erroneous and misleading. The Hon. J. F. Ryan and his cohorts on the Government side know that its economic viability would stretch well into the next century with proper and adequate care. When one takes into account the various indemnities, warranties, backing and income forgone by the proposed sale of the State Bank, the real figure of revenue forgone is in the order of \$300 million. On that point the Leader of the Opposition made it clear that the contract sale figure is very low when compared with the sorts of figures that should pertain to any of the other major financial institutions. St George Bank has assets of \$15.1 billion, shareholders' equity of \$744 million and a profit in 1993-94 of \$92 million. The estimated value of that bank is \$1.097 billion. The State Bank of New South Wales has \$19 billion worth of assets, shareholders' equity in the order of \$700 million, and a profit in 1993-94 of \$35 million. It can be suggested, at least, that its value is much greater than the offer being made for it.

The privatisation issue is dead, not only in this country but also overseas. Community surveys recently have clearly demonstrated that people are concerned about asset sales. When a poll was taken in Port Macquarie regarding the privatisation of the hospital, two-thirds of the people polled opposed that sale. That attitude will be reflected in the election booths on 25 March 1995. People in this country are becoming sceptical of privatisation. A number of papers relating to this issue are important. A paper by Clive Hamilton, Executive Director of the Australia Institute, entitled "The Duties of the Sovereign: Assessing the Arguments for Privatisation", states:

In the light of the negative distributional effects of sales of public assets, and given the now well-established fact that privatisation is not generally necessary to secure efficiency gains, it must be asked whether the program of privatisations is designed to win political favour with potential shareholders.

Clive Hamilton has hit the nail on the head.

The Hon. L. D. W. Coleman: Do you not know the difference between privatisation and selling? We are selling it, not privatising it.

The Hon. I. M. MACDONALD: The bank is in government ownership. The Hon. L. D. W. Coleman should be taken outside for his own good, and for the good of his party. I would have thought that privatisation must be defined as the sale of a government asset. The Hon. L. D. W. Coleman is saying that we are selling the State Bank, not privatising it. I have a lot of difficulty understanding those two statements; they mean the same thing. When a government instrumentality is privatised, it is sold in some shape or form. The Hon. L. D. W. Coleman probably had a nice wine with dinner. I hope that when I conclude my speech he will tell us of his oenological experience because, obviously, a little fantasy would do us all a great deal of good. At the end of my speech, I shall look forward to the Hon. L. D. W. Coleman disclosing that intelligence. As to the distributional impacts of privatisation Mr Hamilton went on to state:

Privatisation of public assets may have three impacts on income distribution. The first arises from the transfer of community-owned assets into the hands of a relatively small group of shareholders.

No-one would suggest that that is not the case in this instance. Mr Hamilton continued:

This transfer will result in a worsening of distribution only if the public assets are sold at prices below market-clearing price.

Selling the State Bank at this time is certainly selling the bank at a market-clearing price, especially in view of the bank's potential earnings. Mr Hamilton went on to state:

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As we have seen, the political and bureaucratic imperatives of ensuring that a float is 'successful' has often meant that GBEs have sold it below, and often well below, their true market value.

Clive Hamilton from the Australia Institute has hit the nail on the head: these privatisations are successful only

when assets have been sold at less than their real market value. Another analyst - I shall come back to Clive Hamilton in a moment - John Quiggin, in a good article entitled "Does Privatisation Pay?", made it clear that an analysis of the Commonwealth Bank float in 1991 and the subsequent float in 1993 - the realised figure for the Government from those floats was \$2.3 billion - and an analysis of the net value of the bank at the time show that the figure raised should have been about \$3.9 billion. John Quiggin concluded that on the asset side the Commonwealth Government, in effect, suffered a loss of more than \$1 billion on the transaction in view of the real value of the bank and the value that was raised in the float.

Clive Hamilton's point is that in most instances such privatisations mean that assets are usually sold at a rate that is less than market value. There are probably good reasons why the Government, in its days of dying chaos, should propose such an initiative as the sale of the State Bank. After all, within the next three or four months, there will be a desperate scramble for survival by coalition candidates in a number of seats. A series of promises will have to be made - fortunately, for the people of New South Wales, they will not be delivered - in Maitland, the Blue Mountains, Camden and a number of other seats. The Minister is running around Gladesville like a chook without its head, stirring up a bit of support in that area. The Government, having had a large number of promises to meet in the budget, needs the extra revenue to make the books balance.

The trouble with selling the State Bank at present is that the relevant facts which are taken into account in assessing the sale price are based at the low point. They are not quite as low as the year before when the bank sustained considerable losses. The bank's losses are not the same as those for the larger banks, and they are not as low as they should have been. Certainly, they are a lot less than would obtain if the State Bank were sold in more congenial circumstances in, say, 1996-98 when, on the projections of the Auditor-General, in that period it would be earning a profit of more than \$200 million. In that period, as a consequence, the value of the bank to potential shareholders or owners would be much more than the current offer.

My concern about the sale of the State Bank is based firmly on the fact that it is a sale at the bottom of the market. The bank is not being sold when it is up and running. Based on the projections of the bank and the Auditor-General - that is, more than \$200 million profit within two years - that would be the time to sell the bank. However, this ideologically driven Government cannot allow circumstances to evolve where Labor may sell the bank down the track. I quote from Clive Hamilton's paper:

The second distributional impact of privatisation is the change in the structure of prices of goods and services offered by the newly privatised enterprise. Private firms do not generally subsidise parts of their operations for the benefit of disadvantaged sections of the community. For example, in the absence of regulations forbidding it, privatisation of Telecom -

Mr Hamilton uses Telecom Australia as an example -

would probably mean the introduction of timed local telephone charges, higher costs or withdrawal of services from remote areas, and the disappearance of public telephones. Privatisation of postal services would see rural residents pay much more than city dwellers for standard letters. These charges would in general mean that poorer sections of the community would be relatively worse off.

In the present structure, the Government is, to some extent, offsetting that problem with privatisation. That is the nature of the \$100 million in various indemnities and warranties that have been incorporated in the contract with Colonial Mutual Life. The market imperative will mean that the effect of those warranties will become vital in the future. To demonstrate what I mean by that, as everyone knows, the State Bank of New South Wales was once the Rural Bank. The Rural Bank, and then the State Bank, had a large portfolio that was fundamentally rurally oriented. It loaned considerable amounts to farmers throughout New South Wales and to small businesses in rural areas.

The loan portfolio of the privatised State Bank will come under increased scrutiny by the new owners, CML. It must do that. The imperative of CML is the maximisation of profit. CML is not driven by service obligation. It wants to ensure that its profit ratios are much higher than those that have been suggested for the State Bank at present. As a consequence, over time - I am not saying that this will happen tomorrow - CML will closely examine the rural portfolio and the rural branch network. At present, the State Bank offers a

comprehensive service to the rural communities of New South Wales. It was only in the late 1980s that corporate lending within the portfolio came to any prominence. However, as I said before, it was not prominent to the same degree as some of the more exploratory or cowboy types in some of the State banks of other States.

The State Bank of New South Wales is a rural- oriented bank. Pressures in rural New South Wales will not be reduced by any government, nor will they be reduced by large amounts of export income that certain sectors of the rural industry are currently earning. It will be imperative to put pressure on the smaller aspects of the rural loan portfolio. The smaller customers will face the pressures. Colonial Mutual Life, when it is running the State Bank for the next two or three years, will not review its involvement in many of its smaller business-oriented and farming-related - particularly small farming-related - loan portfolios.

Everyone knows that the drought shows no sign of abating, which will put many farmers in the State under significant cost pressures. Once the State Bank is placed into the hands of private owners, that

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imperative and its inherent financial costs will mean that the State Bank will have to revise its strategies for rural New South Wales; it will have to think twice about the level of indebtedness. An in-built mechanism will eventually push the bank towards a more corporate-oriented and medium-size, business-oriented portfolio.

The Hon. L. D. W. Coleman: That is rubbish.

The Hon. I. M. MACDONALD: Honourable members should mark my words, and I want the words of the Hon. L. D. W. Coleman, "That is rubbish", placed on the record because in three or four years time I will have the pleasure of sending him a copy of his typical contribution to debate, consisting of ill-advised and usually inane interjections. Most people I know in the farming sector have business with the State Bank of New South Wales.

The Hon. L. D. W. Coleman: But you do not know many.

The Hon. I. M. MACDONALD: I know heaps. I have been through the honourable member's area and I probably know more than he would know. They are concerned -

The Hon. D. F. Moppett: How do they think that the State Bank has performed in the past five or six years?

The Hon. I. M. MACDONALD: I am quite happy to discuss the issue raised by the Hon. D. F. Moppett. They are concerned with what they perceive as a banking sector in Australia that is moving away from their needs and interests. That concern is related not only to the four major banks, but also to the State Bank of New South Wales. Last year I attended a meeting at the Dubbo golf course of a large number of farmers who had been severely pressured by the banking sector.

The Hon. D. F. Moppett: Including the State Bank.

The Hon. I. M. MACDONALD: Although the major concern of many of the farmers was Westpac Banking Corporation, they expressed concern about the State Bank of New South Wales. They felt that the State Bank of New South Wales was, and had moved, too far away from its rural, regional-based lending policies and programs.

The Hon. D. F. Moppett: The Commonwealth Bank and the State Bank were the only two that produced organisations of former debtors campaigning against their lending policies.

The Hon. I. M. MACDONALD: The Hon. D. F. Moppett has reinforced my comments regarding the problems perceived by the farming sector about the banking community. The New South Wales Farmers Association is most concerned about the Commonwealth Bank, which released a number of statements

concerning foreclosure on the farming community, especially in western New South Wales around the towns of Forbes and Dubbo. New South Wales farmers have recently raised a number of examples of this appalling behaviour. I can only relate the text of the meeting and the situation pertaining to it. A number of farmers were concerned about Westpac and the State Bank of New South Wales, and their perception of the move away from being the energiser of rural development to playing more of a role in urban-related lending practices.

The Hon. D. F. Moppett: How is a government-owned, undercapitalised corporation going to help them?

The Hon. I. M. MACDONALD: This is excellent stuff from the Hon. D. F. Moppett. I am quite happy to speak to the question of capitalisation. In the past couple of years the State Bank, through its managing director, John O'Neill, has raised with the State Labor Party caucus the short-term capital needs of the bank if it is to remain competitive. If that is the case, why are the directors of the State Bank of New South Wales so strident in their criticism of the proposal? For instance, Mr John Lamble, Chairman of the State Bank, stated that while the \$576.5 million offered by CML may be reasonable, the bank's board did not consider it fair; the same board that indicated to the Labor Party that it needed a capital injection of \$300 million in the next two to three years. The projected profit of the bank in the next three or four years would provide a great basis for that capital injection if the government of the day was prepared to forgo the dividends that governments naturally wish to take and to treat it like a normal business venture with a certain level of reinvestment.

The Hon. D. F. Moppett: Would you change the policy, though?

The Hon. I. M. MACDONALD: In the business and finance section of the *Australian* on 20 November, Mr Lamble said he had written to John Fahey in the following terms:

The bank has written and describes the terms of sale in the contract as reasonable. It's fair to say we didn't use the phrase fair and reasonable, we said reasonable.

In other words the chairman of the board said that it was not a fair arrangement. In the same article Mr John O'Neill, Managing Director of the State Bank, said:

We are now more like a true regional bank, perhaps than any other regional bank in Australia, in that we have a very balanced balance sheet and a mixture of housing, as well as small to medium business, and on the liability side, majority funded out of retail deposits.

The Chairman and the Managing Director of the State Bank are expressing concern that the regional nature of the bank could be challenged in the sale. I am concerned about the level of return that the taxpayers of New South Wales will receive for the sale. I am concerned that, once again, we are going down the path of narrowing our revenue base and that we are more and more reliant on a narrow tax base, a problem that has been raised on numerous occasions by people analysing the range of revenue areas of State banks and State governments.

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Privatisation is dead in Europe, Britain and the United States, yet we - and particularly the Government - still have a passion for it. The issue about the so-called \$19 billion worth of liabilities is based on a false definition. Many borrowers will be concerned about the new owners and that the whole thrust, structure and development of the State Bank is being thrown to the wolves. I am concerned about the staff and officers, not so much immediately but over a period of time. It is erroneous to base these arguments upon rhetoric about banks in other States and their policies. If the Hon. R. B. Rowland Smith reads Trevor Sykes' book *The Bold Riders*, he might discover that the sorts of cowboy practices engaged in at that time by other banks were not present in the State Bank of New South Wales. This sale is a very inappropriate step. The Government, rather than selling assets, should be retooling and regenerating assets. Under no circumstances should the Government be going down this path once more. For a paltry amount of \$500 million - which in effect is \$300 million - the

Government will forgo \$100 million this year and \$200 million next year. As has been demonstrated over the past 10 years, when \$560 million is paid across to the State from the State Bank, the Government is taking a very short-term and narrow view by selling at this time.

The Hon. R. S. L. JONES [8.23]: Whether or not the State Bank should be sold at \$576.5 million is not an open and shut case. I have had consultations with the advisers, a long conversation with the Auditor-General and a brief conversation with the chairman of the bank, John Lamble. The key question is whether we, the people of New South Wales, are better off selling our bank now or whether we should keep it until it returns to normal levels of profitability - or, indeed, whether we should sell the bank at all. There has been a war of words in the media about this, with very many different views from experts in the field. The sale price of \$576.5 million is approximately 8.8 times pre-tax earnings for this latest year. On the face of it, the sale price would seem reasonable if that were to be the trend for earnings over the next four or five years. The forecast for the upper range of earnings for the next three years is \$190 million for 1994-95, \$240 million for 1995-96 and \$300 million for 1996-97.

I understand that the mid-range forecasts are not too much lower than that and are somewhere in the region of \$160 million, \$180 million and \$220 million respectively. From these profit forecasts one needs to deduct provisions for bad debts. These provisions are \$70 million for 1994-95, \$50 million for 1995-96 and \$50 million for 1996-97. There is a question mark as to whether, using industry benchmarks, there should be a provision of \$100 million in addition to the \$170 million already provided for. The ratio of specific provisions for impaired loans is currently 25.6 per cent for the State Bank, 35 per cent for the Commonwealth Bank of Australia Limited, 36 per cent for the National Australia Bank Limited, 42.5 per cent for Westpac and 50 per cent for the Australia and New Zealand Banking Group Limited. The additional \$100 million would raise the State Bank's ratio to 40.6 per cent. Whilst this is a suggestion to bring the provisions in line with industry benchmarks, it is clear from a thorough study that has been undertaken of the loan portfolio that this \$100 million should not be necessary. Tony Harris, the Auditor-General, rejects the need for this provision. He said that in his audit of the State Bank's financial position as at 30 September, the adequacy of the specific loan provision was closely examined and no case could be found, after a sample loan-by-loan audit, for any material change to the bank's specific provisions in its audited financial statements.

The profit forecasts in the upper range for the next three years are in the region of \$730 million, less \$170 million in provisions for bad debt - a net before tax of \$560 million. If one were to accept the upper range forecasts, one would have the view that the \$560 million sale price could be recouped during the next three years if the people of New South Wales were to retain their bank. As Professor Bob Walker points out in today's *Sydney Morning Herald*, in determining the value of the State Bank to a private buyer no account is taken of the fact that the State does not pay tax on profits. This means that, if the bank is indeed worth \$576 million to CML, using the discount factor of 18.9 per cent on future earnings, the bank would be worth \$864 million to the people of New South Wales.

There is no longer any Federal compensation, as there was with the GIO, for the forgone tax benefit. This meant, at the time of the sale of the GIO, that the State received the full market price for the GIO. The State will not be receiving the full value for the State Bank; the bank is worth more, because of this tax benefit, to New South Wales taxpayers than to the private sector. The question now arises whether the forecast profits are achievable and whether there are any nasty surprises just around the corner in the non-performing loan portfolio. The State Bank has been marketing very aggressively the cheapest capped home loans in the last 12 months and has written \$3.5 billion in home loan business in the year to 30 September. Seventy-five per cent of these loans were capped below 7 per cent. These low-interest loans were loss leaders to bring in new business, in the hope and expectation that these loans would convert to higher interest variable loans at the end of the one-year cap period. The variable loan rate with the State Bank is 9.75 per cent, some 3 per cent above the capped loans.

There is a provision for a penalty for those who do not convert, so the chances of people switching to lower interest loans such as Aussie Home Loans are lessened. The estimate is that 90 per cent of these borrowers will convert at the end of the term. The aggressive marketing of these capped loans cost the State Bank nearly \$100 million in the last 12 months. There would have been a significantly better profit this year if

the bank had not been involved in this campaign. I support the aggressive marketing of these low-interest loans and believe that this campaign will indeed pay significant dividends over the next

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seven years. On the basis of the \$3.5 billion new home loan portfolio, I believe that the profit forecasts are eminently achievable. There has been a dramatic switch into the more reliable home loan business, and at the same time there has been a significant decline in loan provisioning, which should fall further over the next few years. The bank has switched out of wholesale banking. John O'Neill, managing director of the bank, was reported in the *Australian* as saying:

We are now more like a true regional bank, perhaps than any other regional bank in Australia, in that we have a very balanced balance sheet and a mixture of housing, as well as small to medium business, and on the liability side, majority funded out of retail deposits.

On page 24 of the Auditor-General's report, which I have taken the time to read, there is a comment by CS First Boston and Coopers and Lybrand in an analysis by them of the funding liabilities of capital notes. That comment shows that the bank is moving out of wholesale funding. During the last 12 months there has been a reduction in wholesale funding from 62.7 per cent to 51 per cent. Retail deposits have increased from 37.3 per cent to 49 per cent. That is obviously a clear move in the right direction. As the Auditor-General suggests, the State Bank is now at a turning point and is on the way to much greater profitability. Anthony Boyd, the banking editor of the *Australian Financial Review*, said in yesterday's edition, "At least Colonial Mutual Life is buying the Bank at its nadir". I absolutely reject the comments made in the column "Chanticleer", in this morning's *Australian Financial Review*, "The 'Aspiration' case is such an optimistic scenario that no sober banker would give tuppence for it". That is absolute rubbish. We can take the \$576 million today and reinvest that elsewhere. We could say that at least we have that much in the hand. The view might be taken that \$576 million in the hand today is worth more than a possible \$1.2 billion in the hand in three years.

The State Bank has spent \$10 million of taxpayers' money getting this far and would spend another \$7 million if this legislation were to be rejected. I wish the Government had not been in such an enormous hurry to sell the State Bank before it had a chance to recover its normal levels of profitability. It was a political decision to sell the State Bank and the timing is appalling. A couple of years down the track the State Bank could well have been a wonderful milch cow, bringing in up to \$200 million a year in non-taxable revenue for the people of New South Wales. As this legislation will undoubtedly pass this House, we will never know just how much this bank could have brought if it had been sold in three years time either by float or to another bank. John O'Neill has finally got it right by moving into the home loan market in a big way. I just wish he had done this a few years earlier. The mums and dads of Australia are far more reliable than the Bonds and the Skases. Even so, the home loan market is becoming increasingly competitive and cutthroat, and perhaps those aspirations will need to be tempered. I have some documents from Michael Vincent Bourke of 34 Free Church Street, Maitland. He wrote to the Premier in a personal and strictly confidential letter, which is now to become a matter of public record. He said:

My Dear Premier,

I have serious sustainable accusations I wish to bring to your attention regarding the State Bank of New South Wales and Beneficial Finance Corporation Limited (State Bank of South Australia) which operates in New South Wales.

Part of my accusations have been attested to by the Member for Maitland, Peter Blackmore M.P., in sworn Affidavit form.

The accusations involve crimes of fraud, conspiracy and perjury, committed against my brother, myself and companies, under the Crimes Act 1900 NSW, including sections 185, 185A, (1) (3) (4), 392, and 393.

These crimes were committed by high ranking officers of both institutions including the officers as listed below:

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! Can the member explain to the House how the matters to which he is referring relate to the bill?

The Hon. R. S. L. JONES: I am glad for the opportunity. According to allegations made by Michael Vincent Bourke, his case against the State Bank will result in \$40 million in damages against the bank. The purchasers of the State Bank should be aware of the potential \$40 million liability, which has not yet been disclosed, before this matter is completed. The buyers of the bank and members of Parliament should know about a potential \$40 million liability.

The DEPUTY-PRESIDENT: Order! As the matter referred to may be germane to the public debate, pursuant to the standing orders the Chair has no alternative but to allow the member to continue.

The Hon. R. S. L. JONES: I understand the Minister's reluctance to have this information placed on the record. Mr Bourke names six people from the State Bank, members from Beneficial Finance Corporation Limited and solicitors, whom I shall not name as it is not appropriate at this point.

The Hon. Franca Arena: Name them.

The Hon. R. S. L. JONES: No, I will not. In another letter from Michael Vincent Bourke to Clayton Utz he wrote:

... On 4 November I formally advised the Premier of New South Wales, the Hon John Fahey M.P., the Chief Government Whip, the Hon John Jobling M.L.C. and Peter Blackmore M.P., Member for Maitland of these actions by the State Bank and some of its officers and requested that the Government take action under the Crimes Act in relation to these matters.

In the event of my claims being proved they would obviously lead to substantial damages being awarded to myself and companies which would amount to a minimum of Forty Million Dollars (\$40,000,000.00) plus damages.

As these allegations are of substance and of material fact and as such require disclosure to the purchasers of the State Bank of New South Wales before settlement is completed I would like your written assurance that this matter will be conveyed as a matter of urgency to Colonial Mutual Life.

These matters are now conveyed to Colonial Mutual Life. That is all the information I place on the record. I have a number of affidavits about the matter, which I would not have time to read. I have not named any names.

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The Hon. Dr B. P. V. Pezzutti: Do you feel better?

The Hon. R. S. L. JONES: I have done my duty as a member of Parliament. I return to the substance of my contribution. In business one can never be absolutely certain of the future. The decision whether to sell the bank now at what can be regarded as a reasonable, if not fair, price, having regard to the bank's performance over the past few years or to keep the bank to reap the benefits of its restructuring, is certainly a vexed one. On balance I would have preferred to keep the bank and then perhaps to make a decision three years down the track. In my view and estimation the people of New South Wales would have been \$300-\$500 million better off if the bank sale had not been rushed through with indecent haste and we had waited until it had returned from its nadir to its zenith.

The Hon. ANN SYMONDS [8.36]: My contribution will ensure that my name is recorded in *Hansard* as opposing the sale of the State Bank.

The Hon. E. P. Pickering: One of the few remaining members of the extreme Left who have not moved to the Right.

The Hon. ANN SYMONDS: I do not know what is extreme about having some Left positions. Perhaps

I need to engage in some discussion with the Minister about what you imagine is extreme and Left.

The Hon. E. P. Pickering: It means far out to the left.

The Hon. ANN SYMONDS: In fact, it may mean left out most of the time, if that is what you mean.

The Hon. E. P. Pickering: I will not tell you how your other colleagues describe it.

The Hon. ANN SYMONDS: We can engage in conversation at a later stage, if the Minister desires, but I had hoped to make some brief comments on this bill. I admit that this is the first time I have engaged in an economic debate in the House, because I am aware that in recent times entry into the debate has been barred by the obfuscation of the terminology. This has been to the detriment of public debate. Jargon such as market forces, productivity gains, core responsibilities, government trading enterprises, government business enterprises and community service obligations seem to mitigate against a number of honourable members participating.

The Hon. E. P. Pickering: Fiscal balance?

The Hon. ANN SYMONDS: Is the Minister talking about vertical fiscal imbalance or horizontal fiscal imbalance?

The Hon. E. P. Pickering: I am not sure.

The Hon. ANN SYMONDS: If you are not sure, this is a key to our discussion. What I have determined, having attempted to follow this debate, is that unfortunately opinions have been formed in a haphazard way about the decision on this major issue. Decisions have been made on a report of the New South Wales Auditor-General. It seemed to be a reasonable proposition to request a report by the Auditor-General before coming to some conclusion about the best way to proceed with the bank. However, as I have learned from an illuminating article by Bob Walker in the *Sydney Morning Herald* today, the report is a flawed document. Anyone who denies that is not facing up to the issues being raised. The concepts of sale value and retention value have been confused by this document.

[*Interruption*]

Does the Hon. L. D. W. Coleman intend to participate in this debate - if so, I look forward to his contribution - or is he simply in the business of interjecting?

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I agree with the sentiments expressed by the Hon. Ann Symonds. The Hon. L. D. W. Coleman, who is intent on interjecting, should add his name to the list of speakers should he wish to contribute to the debate.

The Hon. ANN SYMONDS: It has also been pointed out in this analysis by a professor of accounting that the concepts of fair and reasonable are also confused. The Australian Securities Commission has as a definition of fairness: whether the price offered is equal to or greater than the value of the securities. Reasonableness requires an assessment of the circumstances. The report apparently treats fair and reasonable as a single test, which demonstrates that it is not a reliable document.

The Hon. Dr B. P. V. Pezzutti: It is tautology.

The Hon. ANN SYMONDS: It is not tautology at all.

[*Interruption*]

I will not again canvass those two issues because they were clearly defined by my colleagues the Hon. I.

M. Macdonald and the Hon. R. S. L. Jones. Though the honourable member does not understand the difference between those two words, the directors of the State Bank did. They said that CML's offer was not fair, but it was reasonable in the circumstances, given that the Government blocked a public float and prevented major trading banks from bidding, leaving only one bidder on the scene. I, and I am sure all honourable members, want to know whether that is fair and reasonable.

The consultant reported that the Auditor-General's report left a lot to be desired. The CS First Boston report on the State Bank cost almost \$1 billion. It has been pointed out that it cost about \$20,000 a page. It is a shame that it could not have been of more value to us in assisting our assessment. CS First Boston, in reviewing the past performance of the bank and estimating its future earnings, relied on Coopers and Lybrand. This crucial information, which was used to determine what the bank was

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worth, has been withheld from the Parliament on the grounds that it is commercially sensitive. How enlightening is the advice in that report? Even the estimates of the range of sale and retention values - central topics - were not published. It is fair to say, and reasonable to conclude, that the report is flawed.

The Hon. R. S. L. Jones: And incomplete too.

The Hon. ANN SYMONDS: It is certainly incomplete. It is important to refer to the clear arguments against privatisation. It will not surprise anyone in this House that this is my view. It has often been argued that that is the way to go. A document prepared by New South Wales Treasury referred to the importance of privatisation not being seen as an end in itself but as a means to an end. Since 1988, when this Government came to office - which is when the Charles Curran report was released - there has been a relentless pursuit of privatisation and asset sales. I do not know whether other honourable members are aware that the way to get general public agreement on the dismantling process is to create an impression that the State is in financial crisis.

The Hon. L. D. W. Coleman: We were.

The Hon. ANN SYMONDS: That is not the case. The Curran report, with its false accounting, led us to believe that each man, woman and child in this State was X number of dollars in debt. Debt reduction - through privatisation and the sale of assets - became the goal of the Government. The Government should not be retreating from all these areas of society. The Government may need to intervene in the market for social and economic reasons, for example, to provide goods and services which, if left to the market, would not be provided at all.

The Hon. D. F. Moppett: You are sounding like Teddy Wheelwright.

The Hon. ANN SYMONDS: What an honour! Governments have the role of ensuring social justice and equity by maintaining cross-subsidisation of essential services. They must ensure that minimum standards are adhered to and regulate the use of scarce resources. I am astonished and cannot believe that members of the National Party are lending their support to the sale of this government asset. I do not believe that smaller government is necessarily associated with greater economic growth. I want to compare the annual percentage growth of GDP for a range of countries.

The Hon. L. D. W. Coleman: Do you know what that stands for?

The Hon. ANN SYMONDS: The Hon. L. D. W. Coleman is very insulting! He should be quiet if he cannot contribute anything of value to the debate. A comparison of the gross domestic product of a range of countries shows that many countries with larger government sectors than Australia are performing well, while others with smaller government sectors are not. I believe that the privatisation approach should no longer be used. It is no longer supportable and has created havoc and inequity in the western world over the past 15 years or so. It is important to remember that the Rural Bank - the origin of the State Bank - once had social objectives. The Rural Bank had as an objective the provision of cheap credit for farmers to prevent them from destruction

because of debt incurred in bad years. Farmers often owed banks and stock and station agents amounts of money which it was difficult for them to repay.

The primary function of the Rural Bank, which was established in 1933, was to finance the rural and housing sectors in New South Wales. The bank was corporatised in 1990. At that time corporatisation aimed to make the bank a private sector bank in shape, structure, form and regulation, independent from government, but still accountable to government for its performance. After corporatisation a number of new directors with substantial business experience were appointed to the board. As at the end of March 1994 the bank, which was the sixth largest in Australia, had the third or fourth largest assets or deposits in New South Wales. It had 639 customer service centres and retail agents, 64 banking centres and about 4,750 employees. I am sure that those employees will be extremely concerned about their future when the bank is fully privatised.

The Hon. L. D. W. Coleman: Sold.

The Hon. ANN SYMONDS: Could you accept that privatisation is another word for the same process? If it is sold, it is actually transferred into the private sector. Does the Hon. L. D. W. Coleman understand that concept?

The DEPUTY-PRESIDENT (The Hon. Dr Marlene Goldsmith): Order! I remind the honourable member to address her remarks through the Chair.

The Hon. ANN SYMONDS: Oh, dear. I am so mortified that I have offended the Chair. I shall certainly address the Chair at every opportunity.

The Hon. J. H. Jobling: Is the honourable member canvassing the ruling?

The Hon. ANN SYMONDS: Certainly not. I am terribly sorry if I have been overdramatic in my apology. It is my wont, as honourable members may have noticed in the past.

The DEPUTY-PRESIDENT: Order! The level of noise in the Chamber is unacceptable.

The Hon. ANN SYMONDS: I conclude my remarks by saying that some of us have recently had the extraordinary experience of becoming aware of the extent to which some country members have been dissatisfied with the support they have been given by banks and other financial institutions. It behoves us to reflect that losing the potential for customer service and protection of individuals that a State-owned bank represents is to be regretted.

The Hon. R. S. L. Jones: Country people in particular.

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The Hon. ANN SYMONDS: And particularly country people. I record in *Hansard* that it was a Labor Premier, McKell, who increased the capacity of the Rural Bank to service people in a more effective way. In the first six months of 1944 after McKell had enabled the Rural Bank to establish a personal loans branch 899 persons had borrowed £43,075 at an average loan of £48. If the amounts appear trivial for an institution dealing in millions, the transactions were vitally important to the humble borrowers. I speak, for example, of a tram conductor who was able to pay off six moneylenders and reduce his repayments of privately borrowed money from £4.1.10 a week to £1.0.2 a week with a personal loan from the Rural Bank. His interest rates with the moneylenders ranged from 47 per cent to 102 per cent. He was 28 years old and his wages were £5.9.1 a week.

The tram conductor's personal loan from the Rural Bank was £157, and his weekly instalments would repay it in three years, a vast difference from the lifetime of indebtedness from which he could never have freed himself but for the bank's personal loan. His case was typical of many wage-earners who were helped to free

themselves from moneylenders who charged anything from 47 per cent to 300 per cent as against the bank's modest 5 per cent. I simply remind the House of the function that the bank once had. I think it is a retrograde step that all considerations being made by us are based on economic factors only. It is time that we returned to a consideration of social policy objectives as well. The madness of managerialism and the dominance of market forces is destroying our society. It is time to begin to consider human needs. Instead of excluding humanity from our consideration we should begin to include it in a major way. I believe that it is possible to consider and to give effect to efficiency objectives and social policy objectives that put care of the citizens of the State at the forefront. I do not believe that the sale of the State Bank will do either of those things.

The Hon. D. J. GAY [8.54]: My contribution follows that made by the Hon. Ann Symonds. The Left of the Labor Party is being followed by the Left of the National Party. It is not often that we are far apart, but on this issue we are a long way apart. I intended to comment on the contribution made by the Leader of the Opposition, but I shall save that pleasure for later. This situation is rather like golliwog land. The performance on the other side of the House has all the credibility of Ollie North.

The Hon. Dr B. P. V. Pezzutti: What is wrong with Ollie North?

The Hon. D. J. GAY: The Hon. Dr B. P. V. Pezzutti should ask the electors in America that question. I should like to say a few words in support of the State Bank (Privatisation) Bill that was passed in the other place last night with the support of the Independent members. The sale of the State Bank represents a new era of growth and prosperity for both the State and the people of New South Wales. It is important that I make this prepared speech. It was in part prepared by a student from the University of New South Wales who was working with me, Miss Miriam Moses.

The Hon. Dr B. P. V. Pezzutti: Was the student from the politics department or the economics department?

The Hon. D. J. GAY: The politics department. It is interesting to note that the essence of the speech was prepared some three weeks ago, before presentation of the Auditor-General's report. It was prepared without background of the comments made in another place last night by the member for South Coast, Mr John Hatton, who stated:

I make no apology for demanding that the Auditor-General look at it, because there is a lot of anxiety about selling the State Bank. Somebody who was not on one side or the other needed to look at it. I am proud that I was associated with that. Although it cost \$1 million, the State Government has already spent and committed \$10 million on this exercise.

The honourable member for South Coast explained that he was proud of spending an extra \$1 million on top of the \$10 million already spent in the preparation of the document referred to. I know that the people who will read what I say in the House tonight and the people involved from the State Bank and the Treasury will recognise how similar are the words in the speech I shall deliver to the words in the document prepared. In other words, if the honourable member for South Coast had taken the trouble to trust that the Treasury had undertaken the proper fidelity exercise, \$1 million would have been saved. I draw to the attention of honourable members the words I shall use, which were in part prepared by a student some three weeks ago.

The Hon. R. S. L. Jones: Are you sure they are right?

The Hon. D. J. GAY: They are virtually the same as the report tabled by the Auditor-General. I am drawing to the attention of honourable members that similarity and I am suggesting the gross waste of an extra \$1 million. The member for South Coast has proudly said that he wasted \$1 million. I wonder how far that extra \$1 million would have gone with farmers in the Western Division, businesses in the regional and rural centres and people struggling in the suburbs. The bill comes before us at a time when governments all around the world are selling banks. Over the last 10 years, 93 government banks have been sold in 37 countries. This suggests that banking is not and should not be a core business of any government. Under government ownership a bank's capacity to grow is limited, because of the demands of other priorities such as funding for

health, education or law and order. In New South Wales the terms of the agreement signed between the Government and the bank ensure that the Government's preferred terms of sale will be delivered, which means that the sale will be good for the taxpayers, good for the bank, good for its customers and good for the bank's employees. I emphasise that the sale will be good for the bank's employees.

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The Hon. R. S. L. Jones: For a short period.

The Hon. D. J. GAY: I do not believe that it will be a short period, and I do not believe that any sensible person believes it will be a short period. The privatisation of the State Bank will establish a new financial services group in New South Wales, which will further enhance competition in the industry. There will be more choice for the people of New South Wales and Australia. The bank will develop into a new fifth force in financial services in Australia, ranking with the nationally operating banks in terms of product range, customer base and competitive strength. The open arms with which the board and management of the State Bank has welcomed the Government's decision to sell the bank is indicative of the fact that in the 1990s it is increasingly difficult to compete in the market under government ownership. The method of sale of the bank ensures that the bank will continue to operate as an independent entity that will enjoy the support of Colonial Mutual's resources and expertise. Its existing staff and branch structure will be maintained. Its headquarters will remain in Sydney and existing account arrangements for customers will be preserved.

The Hon. R. S. L. Jones: Not forever.

The Hon. D. J. GAY: Nothing is forever. Thankfully not even the Democrats are forever.

The Hon. R. S. L. Jones: Nor the National Party.

The Hon. D. J. GAY: We have been around a lot longer than you guys. When some are celebrating 50 years and you have been here for six years, we will have been here for 75 years. In the long run customers will derive significant long-term advantages, including access to a wider range of products and services. In addition there will be opportunities for public participation in the ownership of the resulting entity. The sale of the State Bank was not motivated by a mindless commitment to economic rationalism, as those opposing the bill would like the House to believe. The Hon. Ann Symonds knows my concerns about economic rationalism.

A lower price for the bank was accepted in return for the establishment of the bank as a competitive force and the protection of existing staff and branch structures. The price at which the bank will be sold takes into account the future earning potential of the bank and the relationship between net tangible assets and values of the State Bank. The notion put forward by those who oppose privatisation, that the sale of the bank to Colonial Mutual was a one-horse race, is misleading and indicates that they lack the capacity to comprehend the complexity of the situation under which the terms of agreement were reached.

The four nationally operating banks were excluded from the sale in order to ensure that the State Bank remained an independent entity and a competitive force in banking. However, their exclusion from the sale is not adequate reason to claim that the sale of the bank was a one-horse race. Indeed, the sale of the bank was made under extremely competitive conditions. It was the subject of a worldwide tender, with 54 expressions of interest. During the lengthy sale process the Government's major concern was to sell the bank for the best price and on the best terms for the people of New South Wales, bank employees and bank customers. The final terms of agreement signed between the Government and Colonial Mutual succeeded in doing so by taking into account the interests of the bank, its customers, its staff and the taxpayers.

The final decision to sell to Colonial Mutual was partly based on the stability that has characterised the organisation since its inception. Colonial Mutual has had 120 years of experience in the financial service industries in Australia. It is Australian owned and managed and is one of Australia's oldest and strongest financial service groups. In addition, Colonial Mutual and the State Bank are strategically a good fit.

Together they have a customer base of about three million people, a strong presence in Australia's two biggest financial markets, and representation along the eastern seaboard.

Anyone who suggests delaying the sale in the hope of obtaining a better price in the future is ignoring the real cost of continued government ownership of the bank. The main reason for selling the bank now is that New South Wales taxpayers are carrying a liability through their guarantee of \$19 billion in bank deposits and debts. Irrespective of the profits that may be accrued, every day the sale is delayed New South Wales forgoes at least \$100 million in opportunity costs on its guarantee. The proceeds from the sale will be used to retire the State debt. Any delay of the sale could undermine the sale values of the bank.

If the bill is not endorsed, not only will the New South Wales Government be faced with a \$7 million payout to compensate Colonial Mutual for the work the company has already done on its bid for the bank, but it will foster a feeling of uncertainty as to the bank's future, making it more difficult for the bank to plan and maintain the morale of its employees. The sale of the State Bank will usher in a new era of growth for both Colonial Mutual and the State Bank as well as the New South Wales Government. The combined forces of the Colonial Mutual group and the State Bank will build bigger, financially stronger, more competitive and diverse organisations, while each remains a viable independent entity that maintains business as usual. I am instructed by the Whip to resist the temptation to talk about Eganomics tonight, but perhaps at another time we might be able to enter into that fanciful world that is like a playschool environment - the world of Eganomics.

The Hon. M. R. Egan: Are you doing Eganomics 1 or Eganomics 2?

The Hon. D. J. GAY: Does the Leader of the Opposition have his cuisenaire rods? Can he get to two?

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Reverend the Hon. F. J. NILE [9.05]: I speak on behalf of Call to Australia in support of the State Bank (Privatisation) Bill. The object of the bill is to permit the sale of the State Bank, which is at present a State-owned corporation. The bill permits the sale of shares in the State Bank of New South Wales Limited, removes the name of the bank from schedule 1 to the State Owned Corporation Act 1989, and removes impediments to the sale and transfer of the bank's issued shares imposed by that Act. Removal of the name of a State-owned corporation from schedule 1 to the State Owned Corporations Act has the effect of terminating the corporation's status as a State-owned corporation. The State Owned Corporations Act provides that this can be done only by an Act of Parliament.

Call to Australia has been consistent in its support for the sale of the bank - not in any way pretending to be economic experts but adopting an attitude of principle when the matter was first proposed by the Government and discussed in association with the budget. Strictly speaking it was not a budget item, but Call to Australia felt that when governments make economic decisions they should have the right, as part of their control of the Treasury benches, to proceed in those directions and not be obstructed either by the Independents in the lower House or by the crossbenchers in the upper House. It does not mean the matter should not be examined with great scrutiny; it should be considered carefully. Call to Australia felt there was a point of principle from the first time the matter was raised.

The Opposition should be reminded of the background of the issue of sale of the State Bank, taking into account what happened in other States under Labor governments. Though it was never anticipated that such an extreme disaster would occur in this State, what happened in the other States put a chill through the coalition Government, and rightly so, at the thought that a similar situation might develop in this State. Although banks have their accounts audited and they appear on the surface to be reasonably satisfactory, the serious developments in South Australia and Victoria occurred against the background that respective governments in those States thought they knew what was going on and that matters were not as serious as they turned out to be.

In other words, if a State bank is in trouble, because it is a State bank it turns to the government for financial assistance, for provision of money from the public purse. That is what happened in South Australia.

I am sure the South Australian Labor Government would not have touched the bank with a 10-foot pole if it had known the seriousness of the situation in that State. I am not suggesting that New South Wales is facing a similar situation, but it raises the issue of whether governments should be in the banking business in the first place; whether they should put themselves in a position where, if a bank does get into trouble, they have to take some responsibility and use taxpayers' funds to bail them out.

In principle, it is much better for the Government to remove the State Bank from its list of responsibilities and to transfer it completely to the private sector, as it is doing in this legislation. Obviously, we would like the Government to get \$1 billion or \$2 billion for the bank. However, the true value of anything that is sold is the price that someone is prepared to pay for it. As the Leader of the Opposition said, one can have hypothetical values, such as he presented to the House. But, if those hypothetical values were so obvious to him, they would have been obvious to the market, and the market would have been higher than the \$576 million offered for the State Bank. In other words, the market does not agree with the optimism of the Leader of the Opposition, or the way in which he examined the projected huge profits that would start pouring in next year and so on. It may be the other way round, as happened in South Australia.

It is good for the Government to remove the State Bank from the public sector. It will no longer have to monitor the activities of the bank. The bank will have to survive, as does any other bank in the private sector. However, it will have to continue to provide service to its customers and to fulfil all the requirements of security to ensure that its assets are greater than the money owed. An article in the *Sydney Morning Herald* on 28 August 1992 reported that the former South Australian Labor Government hoped that it could bail out its State Bank. When it tried to do so it found that its State budget had a deficit of more than \$7 billion. That was a State deficit, not a Federal deficit.

Opposition members criticised the coalition Government for having a deficit of a few hundred million dollars. What about a \$7 billion deficit? The deficit in South Australia occurred as a result of the policies of the then Labor Government and the failure of the State Bank. The losers were the taxpayers. They had to bail out the bank. That bank had been split into two institutions. They became the biggest budget winners. The South Australian Government announced a further bailout of \$450 million to the commercial arm and \$450 million to the corporate institution now known as the group asset management division. That brought the government donation - I emphasise the word "donation" - to the bank to more than \$3.5 billion. That was almost \$1 billion more than the Victorian Government needed to bail out its State Bank. That debacle in August 1992 led to the resignation of the State Premier of South Australia.

We need to remember what happened to both the Victorian and South Australian State banks. Their accounts were being audited. No-one dreamt that they were in such a serious position. I am not suggesting that the New South Wales State Bank is in such a serious position, but what I have related provides the background to the Government's decision to sell the New South Wales State Bank and to remove itself from any potential risk. In the future, that risk will be in the hands of the private sector. The private sector will have to manage the bank efficiently to protect its investment.

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We note that there was some pressure on the coalition Fahey Government in September 1992 to inject funds into the State Bank. Although the State Bank sought a capital injection, Premier John Fahey's first budget, which was delivered on 19 September, did not contain anything for it. The Government resisted the temptation to pour in funds that would have had to come from other areas of expenditure, such as hospitals and schools. It has been reported that with the loss of \$3.15 billion in South Australia, the South Australia Government hoped that the Federal Government might assist it, as the Federal Government had done with Victoria. The Commonwealth Government helped to bail out the Victorian Labor Government by making a complex deal with the Commonwealth Bank. An article in *Sydney Morning Herald* on 18 February 1993 stated:

The Prime Minister and the South Australian Premier, Mr Arnold, have reached a pre-election deal on the sale of the State Bank

of South Australia (SBSA).

But the \$600 million Commonwealth assistance package - to help offset the \$3.15 billion debt announced by the bank since its collapse in 1991 - is dependent on the re-election of the Keating Government.

It is interesting to see the pride of the Opposition in the ability of Mr Keating. The article further stated:

The package, including tax compensation, is also on the proviso that the bank is put up for sale as soon as practicable . . . In Adelaide yesterday, Mr Keating said he envisaged the bank would be sold within 12 months.

Next came the important quote from Mr Keating:

The Keating Government is prepared to provide special assistance to South Australia of a net present value of \$600 million. This assistance will take the form of a combination of cash grants and debt waivers over this year and the next two years and is conditional on the bank being sold.

The Federal Labor Government was giving a direction to the South Australian Labor Government to sell the State Bank, and was stating the condition on which the Federal Government would give financial assistance of \$600 million. That was the policy of the Federal Government. That Federal policy supports what the coalition Government is doing in New South Wales. There cannot be other argument from the Opposition. When the Hon. Ann Symonds said that she opposes the sale of the bank, she opposes the Federal ALP policy. There is no question that all the ALP leaders want to sell the bank. The only question is how to get a better price. Obviously, the coalition Government wants a better price, but it cannot get a higher price than that which the market is prepared to pay.

As the Hon. D. J. Gay rightly said, a number of conditions were laid down for the sale of the State Bank. I can take part of the credit for that because when the sale of the bank was proposed, we told the Government that we had no objection to the sale in principle, but we were concerned about jobs. We took that position consistently, with the issue of the Government Cleaning Service, and elsewhere. We insisted that a formula should be worked out so that the employees would be protected if the bank were to be sold. The Government then made an obvious deduction: if the State Bank were sold to a major bank with branches in the same places as the State Bank, the major bank - Westpac or any other bank - would close down the State Bank branches and merge their operations in towns and suburbs. Obviously, people would lose their jobs.

The Government said that it wanted to save jobs, which would mean getting a lower price. It reduced competition for the sale of the bank. I am surprised that no Opposition member has complimented the Government on taking the attitude of protecting employment in the State Bank. The Government could have made a hard-headed decision to forget the staff, to go for the biggest price, and to offer the State Bank to the major banks in the State. But it did not. The Government eliminated their involvement in the tendering process for the State Bank. It should be commended for that action. The Labor Party, which claims that it cares about jobs and working-class people, should be commending the Government for taking a high moral stance in this matter of the sale of the State Bank.

We have received correspondence from people who have grievances with the State Bank. I will go through some of that correspondence. The Hon. R. S. L. Jones referred to the case of Michael Vincent Bourke, with whom I have had discussions. He got himself into a lot of financial trouble with loans totalling \$5.3 million. He was also concerned about his dealings with bank staff and other persons. I have told him that I would need more evidence of those aspects of his concerns if I were to become involved.

A lobby group called victims of the State Bank has been questioning some of the practices of the bank. On one hand that may be considered to be further evidence that it would be good for the Government to get rid of the State Bank; on the other hand it may reflect the need for the Government to monitor the State Bank under its new ownership to ensure that people who are its customers and who have loans are still treated with justice and fairness. I received a letter from the Acting Secretary of the Rural and State Banks Retired Officers Club -

I do not know how many members it has - who asked me to put on record the opposition of the members to the sale of the bank. They believe it should be left as it is, but they are out of touch with the current financial problems of the State. I have also received a fairly distressing letter from Mr Kenneth N. Higgs of 28 Seabrook Crescent, Doonside. He owes money to the State Bank and is in arrears \$3,130.23. The sad fact that he was an employee of the State Bank underlines the need for more care, compassion and taking into account personal situations. His letter stated:

The State Bank has threatened to evict me and sell my home, if I cannot pay arrears of \$3130.23 by the 14 October 1994.

My financial troubles started in October, 1991, when I was retrenched from the State Bank during the recession. I commenced setting up a business, but two weeks later I was interrupted on my way to a business conference, when

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I had a head-on collision with another vehicle at Strathfield. I suffered permanently disabling injuries and required surgery, with hospitalisation and rehabilitation for nearly six months -

During this time, I received no income whatsoever, and was forced to live on my severance pay from the bank. I used the same money to keep up my \$1000 per month mortgage repayments until it ran out, and I was forced early last year to ask the bank for some leniency. We agreed that I would pay reduced instalments (\$350) on my mortgage until I was able to pay the full monthly amount. I have consistently paid \$400 per month, but, in August 1994, the State Bank decided to get ruthless . . .

And apparently issued him with a notice of default. I know that by selling the State Bank the Government in many ways will remove itself from the responsibility of caring for some of the bank's clients. But I would hope, as the writer said, that the new owner, Colonial Mutual Life, even though it has to make profits, will show some care and compassion, especially to former State Bank employees. It seems that in this instance no real care or sense of responsibility was taken for someone who had been the bank's employee and who, as the victim of a road accident, had had a dramatic decrease in his income and ability to pay his loan. It seems to have been overkill for that bank to have threatened to sell his home over such a small amount of debt. Some people involved with the Victims of the State Bank Association -

The Hon. E. P. Pickering: On a point of order: in line with my usual tolerant attitude, I have not objected to the honourable member putting one case before the House that clearly has no impact upon the future financial viability of the bank. Any suggestion that we proceed to a long analysis of other minor complaints that might be laid before the bank by virtue of this bill is out of order. I ask that the honourable member be brought back to the leave of the bill.

Reverend the Hon. F. J. NILE: On the point of order: various members have said that at the point of the sale of the bank the Government should have drawn to its attention some of these matters so that it may have a monitoring role to ensure that no real hardship will be caused to clients of the bank because of the sale.

The Hon. E. P. Pickering: We will have no role.

Reverend the Hon. F. J. NILE: The Government may have to develop a role. I do not intend to go through all of the cases. I just wanted to mention the association as an organisation.

The DEPUTY-PRESIDENT (The Hon. Beryl Evans): Order! I direct Reverend the Hon. F. J. Nile, without further elaboration, to return to the ambit of the bill.

Reverend the Hon. F. J. NILE: I have also been concerned about allegations that appeared in the *Sydney Morning Herald* relating to large amounts of money from the State Bank involving a company called Fourn Pty Limited.

The Hon. E. P. Pickering: On a point of order: we are back where we started. These matters are not germane to the sale of the bank and they do not come within the ambit of the bill. A ruling was made earlier by the Deputy-President, the Hon. D. J. Gay. On that occasion the Hon. R. S. L. Jones mentioned the sum of \$40

million. It was held by the Chair that that could be germane to the public debate regarding the sale of the bank. But matters concerning a few thousand dollars are not germane to the question of whether the bank should be sold. I am wondering whether the honourable member can -

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

The Hon. E. P. Pickering: It is not rubbish. It is up to the Chair to decide that.

The Hon. M. R. Egan: On the point of order: Reverend the Hon. F. J. Nile is referring to people who have complaints about the bank, who no doubt either have taken or will take legal action against the bank.

The Hon. E. P. Pickering: So what?

The Hon. M. R. Egan: One of the provisions of the sale of contract was that we, the taxpayers, will be responsible for the indemnities for all litigation against the bank.

The Hon. Dr B. P. V. Pezzutti: Will that change, whether we own it or whether we sell it? What difference will it make?

The Hon. M. R. Egan: The sale price, the whole deal -

Reverend the Hon. F. J. NILE: On the point of order: the Minister completely misunderstood the point. I referred to arrears of \$3,000. I am now referring to a loan of \$216 million. That is quite another situation.

The Hon. E. P. Pickering: In that case, if it is \$216 million, I withdraw the point of order.

The DEPUTY-PRESIDENT (The Hon. Beryl Evans): Order! Though the point of order has been withdrawn, I remind the member that he should confine his remarks to the ambit of the bill.

Reverend the Hon. F. J. NILE: As the Leader of the Opposition said, agreements have been made with CML, the extent of which might not be fully understood. CML might decide, according to the details of the sale agreement, that certain loans - which could be for as much as \$60 million - are the responsibility of the Government, and might expect or demand that the Government pay them. Serious concern has also been raised about that issue in Canberra. I refer to that concern so that it is on the record. The Government may or may not be aware of that possibility, but I would be surprised if it is not. That demand might blow up in its face in future.

Other questions are whether the State Bank has front companies, how many of those companies exist, and whether they are part of the sale. One company is called Fouron Pty Limited. Three of Fouron Pty
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Limited's directors are also directors of the State Bank of New South Wales. As the loan money was going to be used for questionable activities by the Eros Theatre, peep shows and brothels, it was decided the Government might be embarrassed if a link showed that the State Bank was financing such activities. The State Bank set up Fouron Pty Limited, the ultimate parent entity, and \$216 million was transferred to it from the State Bank. Fouron then lent that money for specified activities. These details are contained in a State Bank memorandum dated 18 January 1991 on account No. 370768, Chinatown branch, under the name of Fouron Pty Limited-Halbear Pty Limited. That memorandum states:

1. Attached are copies of approvals to facilities for Fouron Pty Limited, a State Bank owned company to enable on lending to . . . customer company Halbear Pty Limited.
2. Also attached is copy of advising from General Manager, merchant banking, 25/8/88.
3. Purpose of these copies is to assist to make clear that Fouron Pty Limited is a State Bank company. Funds were lent to this

company for on lending to our customer as the security property in Goulburn Street operates an erotic theatre, the "Eros Theatre" and a Peep Show (no concession State Bank staff).

4. It was considered at time of original application that State Bank would not want to be associated with financing a building [housing] these [businesses] as Nick Greiner had just led the Liberal Party to power and was talking openly and critically about closing such places.

5. Our security from Fouron Pty Limited is a facility agreement-terms and conditions letter, and Fouron Pty Limited hold a registered 1st mortgage from Halbear Pty Limited plus registered 1st equitable mortgage and floating charge over assets of Halbear Pty Limited plus unlimited personal Joint and Several guarantees from Director.

6. Halbear Pty Limited have provided a mortgage in favour of State Bank to secure current account overdrawing.

7. It appears to me that action will need to be taken by Fouron Pty Limited against Halbear Pty Limited in the first instance.

It is signed by John Pearson, senior manager, and was sent to the Regional Lending Manager, City-Eastern Suburbs, of the State Bank. That memorandum has an official State Bank reception stamp on it dated 21 January 1991. This company was not only a front directly for part of the State Bank, but was set up as a \$2 shelf company, to which the State Bank loaned the \$216 million. According to public company records, the directors of Fouron Pty Limited - Allan Whitehead, Richard William Turner and Peter Gerard Friend - are also executives of the State Bank of New South Wales. They received directors' fees. The directors of this shelf company received, or were due, directors' fees of \$385,611 from Fouron and related companies.

I urge the Government and the Treasurer in particular to ascertain the financial responsibilities of the State Bank and whether that bank has any shelf companies holding funds or owing money. According to investigations, not all that money went to these dubious activities. It looks like only \$2.7 million did. Where did the other \$214 million go - back to the State Bank, or is it still sitting in a shelf company? I support the sale of the State Bank, but I urge the Government to make sure there are no hidden traps down the track. CML could be surprised to find these traps and may then put them back on the Government's plate, claiming them to be the Government's responsibility. Call to Australia has studied the Auditor-General's report of the sale of the State Bank. We agree with other members who have said that it was a pity a further \$1 million of taxpayers' money had to be spent in this way. I interjected earlier that that \$1 million could be added to the \$100 million cost of the royal commission into the police service. A great deal of money is being wasted in cavalier fashion.

The Hon. Dr B. P. V. Pezzutti: John Hatton has a lot to answer for.

Reverend the Hon. F. J. NILE: Yes, John Hatton gave the impression even as late as 24 hours ago that he would oppose the sale of the State Bank and was not worried if the \$7 million went down the drain as compensation. That would have meant that \$7 million and a further \$1 million - \$8 million in all - would come out of the pockets of this State's taxpayers. The report is positive. Coopers and Lybrand and CS First Boston had to prepare the report in a short time. I am staggered that the cost could be such a huge amount, \$1 million, for only a few weeks' work. They must surely have had a staff of 500 on salary for a couple of weeks! Or the company might have charged \$1 million outright, with no bearing on numbers of staff or hours worked. It is hard to break that figure down.

The report stated, at page 10, that from a financial perspective the proposed contract of sale of the State Bank to CML provides a fair and reasonable economic return to the State of New South Wales. The report could have damned the sale or supported it; the report confirmed that the sale should proceed. The report further stated, at page 61, in its conclusions, that sections 7.2 to 7.4 compares the retention value of the State Bank with the net sale value and finds that the net sale value exceeds the retention value, and therefore the sale of the State Bank to CML provides a fair and reasonable economic return to the State of New South Wales. We have supported the sale in principle from the beginning. The report has confirmed that our decision to support the sale of the State Bank is correct and justified. Call to Australia supports the bill.

The Hon. ELISABETH KIRKBY [9.39]: I support the State Bank (Privatisation) Bill. I am well aware that my colleague the Hon. R. S. L. Jones has recently spoken in opposition to the bill. During the dinner break I was invited to attend the annual party of the Civil Liberties Association of New South Wales. The Hon. Franca Arena was also present. The guests of honour were Gough Whitlam and his wife, Margaret, Sir Laurence and Lady Street, and the founder of my party, Donald Chipp and Mrs Chipp. I spoke to Donald Chipp and said, "My colleague and I have different opinions on this bill."

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When you were in the Senate there were occasions when you and other Democrats had differences of opinion and you voted on opposite sides of the Chamber". He said, "Yes, that did happen on many occasions", and quoted those occasions to me. I said, "I am afraid the same thing will happen tonight. My colleague has taken one position on a piece of legislation, but regrettably I feel compelled to take another position".

I do not wish any honourable member on either side of the Chamber to believe that because the Hon. R. S. L. Jones and I are taking different positions about this bill it reveals a schism or an irrevocable rift within the Democrats. This situation has happened on other occasions within my party; it possibly proves that we are luckier than many other parties as we have the freedom to have a different opinion on legislation. The Minister for Energy, and Minister for Local Government and Co-operatives in recent months also crossed the floor in opposition to his party's position on legislation. I support the bill as I believe it is necessary to address the real issue, that is, what commitments will the State Government now make to invest in other infrastructure when the money from the sale of the State Bank is used to defray the State debt? There has been a great deal of dispute about the estimated real value of the bank and the timing of the sale.

I have carefully examined the Opposition's arguments that have been critical of the sale, the arguments that are critical of the Auditor-General's role in reviewing the sale process, the withholding of profit information from the Parliament, the Auditor-General's methodology in calculating the sale price, and the calculation of the bank's profit record and the bank's sale price. Certain members of the State Bank board believe that the sale price to Colonial Mutual Life is not fair. On the other hand, in today's *Australian Financial Review* the entire "Chanticleer" column is devoted to an analysis of what CML will do when it purchases the State Bank, the assertion that the Auditor-General's report says that the Government will get some \$100 million more than the bank is worth and what a blow this is going to be to CML policyholders. I should like to quote briefly from some of the remarks under the by-line of Ivor Ries. He stated:

Colonial Mutual Life is now well and truly on the hook. It has signed a contract for \$576.5 million for the State Bank and, as long as the State Bank of NSW meets its side of the bargain, it is virtually impossible to back out.

. . . Assuming that the deal is approved by the Parliament, Colonial Mutual senior management will have a herculean turnaround job on their hands . . . It's easy to see how Harris -

meaning the Auditor-General -

and his advisers - CS First Boston and Coopers & Lybrand - came to the conclusion that the State Bank was worth a good deal less than Colonial Mutual is paying.

CS First Boston and Coopers & Lybrand used the internationally accepted discounted cashflow method of valuing the State Bank.

The discount rate has been the main thrust of the Opposition's argument about the sale. The 18.9 per cent discount rate is used by Advance Bank and the St George Bank. The State Bank is in the same category - it is a small bank; it is not up with the big four. Therefore, an 18.9 discount rate is quite reasonable. I was personally advised by the Auditor-General that even if one used a 16 per cent or 17 per cent discount rate, his view would be the same: it would be better for the Government to sell the State Bank. One should take into account that the Commonwealth bond rate has a 10.7 per cent discount rate. Discount rates can be juggled, but it is internationally agreed that 18.9 per cent is the discount rate that is proper for the State Bank, just as it is proper for Advance Bank and St George Bank.

Figures bandied about in this debate suggest that if only the State Government would wait, the State Bank would make an enormous profit. The Auditor-General deals with this in the report. It is known as the aspiration case: what the bank would generate in profits if it literally had a dream run over the next five years. However, according to the *Australian Financial Review*, "The 'aspiration' case is such an optimistic scenario that no sober banker would give tuppence for it". When talking about the aspiration case one has to consider whether one can honestly believe that the figures that have been bandied about are achievable. In 1993-94, after dragging an \$18 million surplus, which was taken out of the staff superannuation fund, the State Bank produced an actual pre-tax operating profit of \$70 million. This followed an enormous loss the previous year. Even a pre-tax profit of \$70 million is better than nothing; but it is not spectacular. It certainly does not allow any reasonable person to suggest that next year the bank can make a profit of \$100 million or \$200 million or, in the wildest assertion, \$400 million, which is obviously totally impossible. The article continued:

On current share prices, investors seem to apply a discount rate of 17-22 per cent to bank pre-tax profits when assigning value to regional bank shares.

The article went on to state:

CSFB and Coopers & Lybrand used a discount rate of 18.9 per cent.

As I said earlier, internationally this appears to be the right figure. The article continued:

Given that the State Bank has a very low profit margin, this discount rate may be regarded by some as optimistic.

It appears that the Opposition is not prepared to accept that point of view. I note also in this article that the report of the Auditor-General - which has been accepted by all Government members and by the four Independent members in the lower House - has valued the State Government's warranties and indemnities at about \$176 million. The article also stated:

The Auditor-General's report noted that the advisers estimated the benefit to the State of selling State Bank to Colonial Mutual would be "over \$300 million in net present-value terms".

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That statement was made by the Auditor-General, not by any other financial adviser or by the Australian Democrats. The Auditor-General of this State was requested to report on this matter following a vote in another place - a vote initiated by the Independents. Members in another place have now relied on the Auditor-General's report and have supported the Government in its proposed sale of the State Bank. According to the Auditor-General, Colonial Mutual is buying the bank at over \$300 million in net present value terms. The article stated:

Subtract the value of the warranties from the \$300 million gain the State is making from the sale and it would appear that CSFB and Coopers & Lybrand reckon - using optimistic assumptions - that Colonial Mutual is paying roughly \$124 million over the odds.

Using a more sober set of profit expectations - but the same discount rate - CML would appear to have paid at least \$200 million over the top.

According to the article in the *Australian Financial Review*:

Colonial Mutual had a huge team of advisers, including McKinsie & Co, Goldman Sachs, KPMG Peat Marwick and Mallesons Stephen Jaques. It had access to every single detail of the State Bank's operations. As Smedley and his advisers are not known for commercial recklessness, it can be assumed they have a plan to make the acquisition pay.

The article in the *Australian Financial Review* pointed out:

What has become apparent in recent months is that the banking industry is in a period of radical change.

The major banks were once fat and comfortable and offered what was basically the same level of service at the same price.

But now the National Australia Bank is moving to aggressively increase its share of the Australian retail market, using its lower funding and operational costs to offer extremely low-priced services.

This is squeezing the entire banking community. Banks that can't match the market leader in terms of delivery costs will see their margins squeezed or lose market share.

Unfortunately, that is what will happen to the State Bank, whether it is owned by the Government or by CML. The article in the *Australian Financial Review* and all the information I have been given by the experts in banking management and banking practice that I have consulted, demonstrate the extreme difficulty in arriving at hard, conclusive evidence of the present worth of the bank, let alone any projections of what the bank may or may not be worth at some time in the future. I will not attempt to delve any further into what I believe are very contentious issues in relation to this bill. But I want to draw attention to what I see as the big picture. The nature of the marketplace is changing. The traditional boundaries between banking, insurance and funds management have been blurred in recent times.

A number of attempts have been made by insurance companies to obtain a majority stakeholding in a bank because they think this will offer their customers one-stop shopping for their products. To put it in its most harsh terms, we are now witnessing a plethora of banks losing their customers' deposit funds to other investor organisations such as superannuation funds. The merger of CML and the State Bank will keep CML competitive in the marketplace. If CML does not make a profit from this merger, under the terms of the bill it can sell off the bank in three years. I am very impressed by the provisions in the contract to protect present staff and retain the number of branch outlets available to the public. I doubt whether anything beyond this three-year protection would be upheld by the courts, in view of the Trade Practices Act. History has demonstrated that the sale of private banks has not offered such reasonable terms for their employees. After all, when the ANZ Bank and Westpac downsized, their employees were not protected in this way.

None of the big four banks has ever given the protection to its employees that this bill will give to employees of the State Bank. The Government has done its duty by those employees and I believe it should be congratulated on that. Honourable members have to be guided by the findings of the Auditor-General. As I said earlier, the Auditor-General was appointed by the Parliament to examine the contract and the financial considerations involved in the sale because of the extraordinary complexity inherent in these matters. The Auditor-General has the expertise to cope with such very technical material. Do we really want to go back to the beginning and do the figures all over again? We referred the matter to the Auditor-General, therefore it was entrusted to him by the Parliament. He presented his report, which I was given on Friday. An article in today's *Sydney Morning Herald*, under the by-line of Mark Coultan, read:

Mr Harris reported to Parliament that even with an "aspirational" or optimistic view of future profits, the price clearly exceeded the retention value.

According to this article, which may or may not be correct, Mr Harris, in discussions with the Leader of the Opposition in this place, disclosed some of the confidential profit projections to the Leader of the Opposition. The Opposition expressed concern because those confidential projections were not publicly available, but at least they were made available to the Leader of the Opposition.

The Hon. M. R. Egan: I was quoted in the article.

The Hon. ELISABETH KIRKBY: As the Leader of the Opposition said, he was quoted in the article. I believe that the Auditor-General has fulfilled his obligations to the Parliament. That is not to say that I am not aware that the present value of the bank and its projected operating profits may be calculated by other methods which may or may not give different results. But that is not the real issue. Professor Bob Walker, in another

article in today's *Sydney Morning Herald*, states that he is certainly not in agreement with the Auditor-General. There is a bad joke that goes around about how difficult it is to
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get an opinion from an economist: when one lines up economists and asks what two and two make, one economist will say four, another economist will say 1.999 recurring and a third economist will ask what one wants it to make. That is not a funny joke; it is a sick joke.

The Hon. M. R. Egan: It is a silly joke.

The Hon. ELISABETH KIRKBY: It is a silly joke and a sick joke, but it goes around. There is a great deal of creative accounting happening. We have no means of knowing that the reduction in State Bank debt last year was not due to creative accounting, that all of those non-performing loans were not renegotiated into long-term loans which may in the long term also turn out to be non-performing. There has already been one increase in interest rates and every financial commentator discussing the subject says there is likely to be another increase in interest rates before Christmas or immediately after Christmas. People who have renegotiated their loans will still not be able to perform during 1995 and 1996 because the interest rates will have beaten them.

The aspirational profits are just a dream - they are a fantasy. Even if the Government was not prepared to put money into the State Bank, if it hung on to the bank it would either have to increase its guarantee or introduce what I am reliably informed is known as phantom capital. I had never heard of phantom capital before the Auditor-General told me about it, but apparently that is what happens. At least if the bank is sold to Colonial Mutual Life that organisation will take on board the whole of the risk of the future operation.

The Hon. M. R. Egan: No, it will not.

The Hon. ELISABETH KIRKBY: That is a guarantee for three years, that is all.

The Hon. M. R. Egan: Failed loans, we carry; the cost of the non-performing loans, we carry; the warranties, we carry -

The PRESIDENT: Order! The Hon. Elisabeth Kirkby has the call.

The Hon. ELISABETH KIRKBY: I am well aware that there are obviously great differences of opinion between the Opposition and the Government on this matter, and there might be substantial differences in calculations if another methodology were used. We can debate the subject of the commercially sensitive information on the bank's projected operation costs. If that had been made available it may have revealed a situation that would have the bank looking very healthy in the future. My position is that the Auditor-General has examined the figures, has heard evidence from the board of the State Bank on its opinion of a fair price and has therefore complied with the terms of reference given to him by the Parliament. After hearing all of the evidence and examining the books, he has said that he thinks the price offered is fair and reasonable.

I contend that even if the so-called commercially sensitive material about the bank's projected operating costs were made available, that would not resolve the issue of current or projected value, because there would still be disputes about the figures. Any projected calculations are not made by the use of a crystal ball. They are volatile by their very nature. We have an offer now. We may have had a better offer later, but for the Government to hold on to the bank in an attempt to make it a better money-spinner would require the injection of some \$500 million to \$600 million in capital. Even if capital were not injected in real terms, at the very least a guarantee of \$500 million in phantom capital would be required. That is the amount CML will have to invest for the bank to maintain a competitive position in the marketplace, and that is why the article appearing in the *Australian Financial Review* stated:

Colonial Mutual Life is now well and truly on the hook.

It is CML that will have to carry that, not the citizens of this State. CML will have to put in that money in order to maintain a competitive position in the marketplace. It is for that reason I believe that the argument that a better offer could be made later, that it might be possible to get a better profit from the sale, is flawed. As I see it, the real issue is whether the New South Wales Government should be involved in banking in 1994. Historically there was a reason for the Government to be involved in banking. After the Great Depression of the 1930s there were reasons, both economic and political, for a government, in this case the New South Wales Government, to be involved in the business of banking. By 1987, under the previous administration, the name of the bank itself had changed from the Rural Bank of New South Wales to the State Bank of New South Wales, reflecting the change in the nature of the bank itself.

There is no logically correct answer to the question of whether the Government should be involved in the banking business; it is a matter of philosophical conviction. Why should the New South Wales Government meddle in the banking business at what is really a pissant level, when the whole reason for setting up the bank has receded into history? The State Bank does not look after ordinary people, it does not look after the farming sector in the way it did 60 years ago. The bank is in the marketplace and it is doing exactly what every other bank does. If interest rates go up, it raises its interest rates; if it wishes to increase its profit margins, it decides to put excess charges on cheques and excess charges on loans. The bank does what the big four banks do, it does what every other commercial bank does.

I believe that the Government of New South Wales would serve the people better by investing not in banking but in other utilities. A bank is not a monopoly. Unlike water, which is the most important thing we have to deal with in this State, particularly at the moment - water being the source of all life - any number of adequate services are offered to the people of New South Wales by the banks in the marketplace. There are many other ways in which people may

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invest and have their money safeguarded. State Government employees have their own credit union, as do Police Service employees. There are several other general credit unions. The credit unions are not available only to public service employees, Police Service employees or Pacific Power employees; ordinary members of the public can belong to them. There used to be building societies, which have now become banks. They offer services to people with small amounts of money to deposit and have safeguarded.

The Hon. M. R. Egan: There are still building societies.

The Hon. ELISABETH KIRKBY: There are still some building societies. Sixty years ago the Rural Bank was safeguarding the interests of the farming community and of the small investor. Those times have gone. Banking is not a monopoly. The provision of water and, to this time, the provision of power are State monopolies. There is all the difference in the world between privatising a State monopoly and privatising a bank. The philosophy and policy of the Australian Democrats is that no State utility should be privatised. However, it is not delineated clearly in the policy of the Democrats that we should oppose the privatisation of a State bank. The Government has said there will be a potential saving of \$19 billion by off-loading the bank's potential liabilities. I do not know whether this figure is correct, and I am sure the Leader of the Opposition does not know if the figure is correct. However, if there is \$19 billion, \$9 billion or only \$1 billion, the Government needs to commit itself to the reinvestment of that money in infrastructure for the State. I mean by that solar power, wind power and retaining the water resources of the State.

The Hon. M. R. Egan: You do not really believe this?

The Hon. ELISABETH KIRKBY: I do believe this.

The Hon. M. R. Egan: Do you believe we can invest \$19 billion by selling the State Bank?

The Hon. ELISABETH KIRKBY: You are not going to get it so why pretend it will make a profit? Why float these fairy figures of the enormous profit that is to be made?

The PRESIDENT: Order! The purpose of debate is not to engage in interrogation. The Hon. Elisabeth Kirkby has the call.

The Hon. ELISABETH KIRKBY: I refer to the projected profit from 1995. I was careful to check this today with the Auditor-General. By renegotiating non-performing loans the State Bank managed to get out of red and into the black and made a \$40 million profit. According to the Auditor-General, if the bank is lucky, next year it may make \$60 million profit after tax. It will now have to pay tax. After all the argument on legislation before the House, the State Bank was not exempted from tax. The tax has to be taken off, so the Opposition should float post-tax figures not pretax figures.

The Hon. M. R. Egan: No, the tax goes to the State. If the entity is owned by the State, the tax goes to the State.

The Hon. ELISABETH KIRKBY: It is impossible to realise these wild figures that have been suggested. I checked carefully before entering into this debate. The Auditor-General suggested to me that if the State Bank makes \$60 million next year after tax, it will be a very lucky State Bank indeed. Nobody has taken into consideration the impact of the drought. The fact that there has been some rain in the south of the State and in the far north of the State does not mean that the drought has broken in New South Wales. We are losing major export earnings from grain, cattle and everything which has been part of our revenue in this State. It also means that for the first time since settlement we will not have seed grain in this State to plant next year's harvest. Even if there is rain in February, in many parts of the State which do not depend on summer rain there is no opportunity to plant a new crop until spring 1995.

The Hon. I. M. Macdonald: Will CML be predisposed to the farmers on the land?

The Hon. ELISABETH KIRKBY: The State Bank was set up to help farmers, but it has not done so, nor has any other bank. Few banks have done anything for farmers. The drought is bound to have an impact, and that should be borne in mind when discussing the economy of this State in 1995-96. The terrible wind storms over the last 48 hours, which have done millions of dollars worth of damage in metropolitan Sydney and in various parts of the State - even in the central west - have not brought rain. They have done enormous damage, which insurance companies will have to cover, but they have not brought rain.

The Hon. D. J. Gay: They have brought some rain.

The Hon. ELISABETH KIRKBY: But not sufficient to break the drought. Insurance companies are up for vast payments to replace people's homes and replace other things that have been destroyed. No one is taking that into consideration. Some National Party members on the Government benches have an understanding, but I do not think any member of the Opposition has any understanding at all. They are concentrating too hard on western Sydney. I do not think they even drive. Perhaps the Hon. I. M. Macdonald does, because he has a property, but the majority of members of the Opposition do not even know what it is to drive over the mountains and see the devastation of the drought.

The Hon. M. R. Egan: On a point of order: for the last five or six minutes the Hon. Elisabeth Kirkby has been speaking about the drought. I am sure she is very knowledgeable on that subject but she has not yet told the House how it has any relevance to the bill.

The PRESIDENT: Order! There is no point of order. The honourable member's remarks are relevant.

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The Hon. ELISABETH KIRKBY: That is a sad statement by the Leader of the Opposition because he does not understand. It is possible that by next March the Labor Party may be in government. That government will have to cope with the downturn in the economy, which will affect all the economic projections that his government will have to make. If he is going to be the treasurer instead of the acting-treasurer, it will

be his total responsibility to take into account the impact of the drought on the State's economy.

The Hon. M. R. Egan: We will not have \$100 million in earnings from the State Bank to help us cope.

The Hon. ELISABETH KIRKBY: That will not assist the situation. In conclusion, I put on the record - though it does not have to be put on the record because the majority of political commentators have already made the point - that it is remarkable that the Leader of the Opposition in another place has not said one word about this legislation. He did not even pay the House the courtesy yesterday of attending the debate on the bill in another place. He left it to junior Opposition members and he has now left it to the Leader of the Opposition in this House to carry the brunt of it. I think I know the reason for that. If the Labor Party had been in government it, too, would have been forced to sell the State Bank.

The Hon. Dr MARLENE GOLDSMITH [10.19]: The sale of the State Bank is a logical step in the government's policy of moving away from areas that can be adequately serviced by the private sector. This Government is here to make laws for the good of the people of New South Wales and to provide essential services that are not available through the private sector - not to be cleaning contractor or insurers, and definitely not bankers. The sale is also in line with moves being made by governments not only in Australia but around the world. Nonetheless, as with previous moves by the Government to privatise corporations, Labor has launched a campaign to have the sale stopped. Its best efforts, however, met with little success because there is no real basis for its arguments. As noted in the *Sydney Morning Herald* on 15 November, an antiprivatisation rally held in Sydney in September attracted a mere 300 protesters, and a Labor Council meeting called to develop strategies to oppose privatisation attracted only one union.

The present sale has been described as a one-horse race. Yet that is as far from the truth as it is possible to get. The process attracted 54 expressions of interest with six organisations being assessed as meeting the required criteria, and all six entering the sale process. The Auditor-General, in his special report recently handed down, described the sale process as "fair, competently managed and led to a competitive result". The Government set three objectives as well as seven preferred terms. The objectives aimed to achieve the best available commercial terms, enhance the competitive position of the bank and strengthen the State's financial position.

In relation to the first objective, in May this year, the Leader of the Opposition in the other place described the sale as a farce, stating that the Government was accepting a price that was almost \$1 billion less than the bank was worth. He called for a delay of the sale until the best price could be obtained. I am sure my colleagues will agree that that delay strategy was simply in the hope that the Opposition would win the next election so that Labor could sell the bank and be the good guys, saving State taxpayers millions of dollars each year. The tactic is so transparent it is laughable. The Opposition claims that the State Bank should be more highly priced, yet the Auditor-General found that "the consideration for the sale of the State Bank of New South Wales Limited is . . . a fair and reasonable consideration". The Government's financial adviser, Bankers Trust, indicated that the sale would enhance the State's financial position, reduce risk and improve the credit standing of the State by reinforcing its AAA credit rating. The Auditor-General said:

The consideration to be received by the State clearly exceeds the financial and economic return that the State would obtain if it remained the owner of the State Bank.

So much for Labor's calls to delay the sale. The seven preferred terms were for the benefit of customers of the bank, its employees and the people of this State. All these objectives and preferred terms were designed to allow the State Bank to become a major force in the banking sector. With strong support for the sale from recognised experts in the field, the Government would be less than responsible if it did not go ahead on the basis of the negotiated agreement with Colonial Mutual. I place on record my gratitude to Janelle Haffenden for her sterling work in preparing this speech. My speech has been somewhat truncated as it is late and there is much Government business still to be concluded. Finally, I commend the Treasurer, Peter Collins, for his achievement with this landmark development for New South Wales. I am pleased to support the bill.

The Hon. Dr B. P. V. PEZZUTTI [10.23]: I shall place on record an important letter from Michael Lambert, the Secretary to the Treasury, to the Editor of the *Sydney Morning Herald* that I hope will be published tomorrow morning. In case it is not published, it is worth recording apropos the comments made this evening by Hon. I. M. Macdonald, and supported by the Hon. Ann Symonds. The letter stated:

Dear Sir

Professor Walker, in his article (SMH 22 November: "One sided scrutiny of the State Bank sale just not good enough") demonstrates why he is professor of Accounting not Finance. Professor Walker's strong suit must be financial reporting, it clearly is not financial analysis.

The article, in criticising the Auditor-General's special Audit Report on the State Bank, commits two fundamental errors of method.

The Auditor-General's report assesses the sale price for the Bank against the benchmark of retention value, the latter being the net present value of future profits adjusted for the cost of the government guarantee.

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Professor Walker criticises the report for using after tax profits in its analysis and for using a risk adjusted discount rate of 18.9 per cent.

The first point to note is that in assessing retention value you can either assess on the basis of pre tax profits discounted by a pre tax discount rate or post tax profits discounted by a post tax discount rate. The Auditor-General's report shows the former approach. In fact, a 1964 paper by the Nobel Prize winner, Paul Samuelson, shows that these two approaches produce the same result given certain characteristics of the tax system. No less an authority than the Commonwealth Treasury has published supporting papers on this issue.

The second point raised by Professor Walker is the level of the discount rate which he considers too high. Professor Walker appears to believe the discount rate used should relate to the cost of borrowing with the assistance of a government guarantee rather than a reasonable market return on the State Bank shares. This is totally fallacious. This is an issue on which Professor Walker has written in the past and has been soundly criticised by Professor Domberger of the Graduate School of Business, Sydney University. In the words of Professor Domberger, "Public ownership of businesses does not eliminate the risk itself, since it stems from the inherent variability from the income stream". It is a fundamentally accepted principle of finance that the basis for setting the discount rate applicable to assessing public ownership of an asset should not differ from that applicable to a private sector owner.

The key issue is that governments -

The Hon. R. S. L. Jones: But we do not pay tax.

The Hon. Dr B. P. V. PEZZUTTI: The honourable member did not listen to what I said. The letter continued:

The key issue is that government should get a proper market return on its investments. Professor Walker's approach proposes that the government should accept less than a fair market return on the governments shareholding in the State Bank and the guarantee of all its liabilities.

It should be noted that, in fact, the discount rate used was quite conservative and that even if there were significant variations to this and other key parameters the fundamental conclusions of the report would not be altered.

I draw the attention of the Hon. Ann Symonds to the last paragraph of the letter:

Finally, as a matter of fact, Professor Walker incorrectly quotes the Directors of the State Bank as expressing the view that CML's offer was "not fair but reasonable". That is absolutely incorrect. The directors have described the sale as both sound and reasonable and have issued a public statement in support. They have never expressed a view that the sale terms are unfair.

The Hon. M. R. Egan: They refused to say whether it was fair.

The Hon. Dr B. P. V. PEZZUTTI: The directors did not express the view that the sale terms were unfair. The letter went on:

Not only does Professor Walker clearly have no apparent familiarity with principles of finance, he also has difficulty with getting his facts right.

When Professor Walker makes public statements warning the community I urge him to declare his conflict of interest, as all of those who sit on councils and boards must do. For the information of honourable members who may not know it, because it is not widely publicised, Professor Walker is on the board of the Public Sector Research Centre. That board comprises 18 members, and its funding in 1992 was \$405,000, 80 per cent of which came from unions.

The Hon. Dr Meredith Burgmann: Half the professors that the honourable member quotes have directorships in companies.

The Hon. Dr B. P. V. PEZZUTTI: The research centre is supported by the Australian Council of Trade Unions and the Labor Council. That does not mean that Professor Walker's academic research must be discounted, but the community should know that he has a conflict of interest. Professor Walker may or may not be biased. If one declares an interest up front, people can judge for themselves. If doctors took money from the Rothmans research foundation, they would be criticised. However, Walker takes his money from the union without declaring it publicly and then has the gall to publicise himself in letters to the committee on the Water Board as an unbiased, independent commentator. He probably is an unbiased, independent commentator, given that he is professor of accounting at the University of New South Wales, one of the finest universities in the country, but he should declare his interest at the bottom of all his articles.

The Hon. E. P. PICKERING (Minister for Energy, and Minister for Local Government and Co-operatives) [10.30], in reply: I thank all honourable members who have contributed to this historic and important debate. During the debate the Government has demonstrated logical reasons for the State to abandon banking, reasons well and truly supported a moment ago by the Hon. Elisabeth Kirkby, and that the terms of the agreement as negotiated are fair and reasonable. In contrast, the Government's opponents have seen their arguments vaporise like so much hot air, which is just what the Opposition is. The arguments of the Opposition have no substance. They have been conjured up for the sole purpose of grabbing headlines and obstructing the sale of the bank.

The time has come to stop this charade and to support the bill. It is the only realistic solution for the people of New South Wales, because the agreement is based on the preferred terms of the Government that takes into account the needs and the interests of the stakeholders. The choice for this House is but a simple one. It is a choice between the agreement, which incorporates all seven preferred terms that the Government has struck since they were announced on 25 November last year, and the vacillating position of the Opposition. In the past 12 months the Leader of the Opposition and his extremely flexible finance spokesman have announced that the Opposition has been completely opposed to any sale, supportive of a float, opposed to any form of sale at this time, opposed to the inclusion of the big four and inclusion of the big four - that is right, the Opposition was in favour of the inclusion of the big four to see what price it might be offered. One can

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imagine what would have happened to the employees of the State Bank generally if the bank had been bought by one of the big four. But is the Labor Party concerned about that?

Now the Labor Party is opposed to the sale, irrespective of the prestigious report of the Auditor-General, a report called for by the Opposition - obviously it had confidence in the Auditor-General at the time it called for the report - a report that has cost the taxpayers of New South Wales yet another \$1 million. Now that the Opposition has the report it is a bit like the dog that chased the bus: it does not know what to do with it, because

the report does not give the answers that the Opposition would like. Today the Opposition is without argument. Honourable members should be aware and should be under no illusion that the Labor Party knows that it would have to sell the State Bank were it in government. The Labor Party knows that this Government has done a good deal. It knows that there is not a credible financial adviser in the country who does not support the sale. When all the reports are in, when all the analyses are concluded and when all the hype is over - and we are, when all is said and done, talking about one of the most important decisions the State Government and the people of New South Wales have taken for some time - where is the Leader of the Opposition?

When this bill was placed before the Parliament in the other place, the Leader of the Opposition, on what is without a doubt the most important instrument to come before the House for a long time, did not say a word. But who did speak? Who led for the Labor Party? John Murray - the bloke who wants to abolish half the government, the bloke who wants to get rid of government and hand it over to local government. The Labor Party is reduced to putting John Murray into the field. Who supported John Murray? A string of prestigious, highly competent frontbenchers, the future government of the State, we are told. Not one member of the shadow cabinet fronted up after John Murray until the Labor Party realised its tactical error and Richard Amery - I am not sure what portfolio he is shadowing for - came to carry the flag.

Even the Hon. I. M. Macdonald must realise that this is something of a charade. He is laughing. The Opposition must be terribly embarrassed, because for weeks the Labor Party in this State has held up to the people of New South Wales that the sale of the State Bank was a fundamentally important question upon which it would fight to defend the people of this State. When all the research has been conducted, when the Auditor-General has carried out an examination at the behest of the Opposition, where is the Leader of the Opposition? He is in his office. Under these circumstances I am forced to draw another matter to the attention of the House. I have been in this Parliament for a few years and I am well aware of the nuances. I can tell honourable members that a Liberal Party Leader of the Opposition in another place would never allow, on a consistent basis, the Leader of the Opposition in this House to constantly replace him on television every night of the week. Whenever a big thing is happening in this State, where is the Leader of the Opposition? He is away. One never sees him. We get Egan.

Honourable members know that in politics we use what we call grenade or bomb throwers; people who do not have enough brains but who are prepared to appear on television and say things in the House that will upset the opponents, in the knowledge that when the explosion occurs, shrapnel comes back your way half the time and knocks off the bomb throwers. Bomb throwers in both Houses of the Parliament have been knocked off regularly, one after the other. The Leader of the Opposition in this place is the bomb thrower for the Labor Party. He was put in this Chamber because if he gets splattered in this House it does not matter all that much. What happens in this House is almost irrelevant to the community of New South Wales according to the fulsome reports that we get from the media in this Chamber. The Leader of the Opposition was prepared to put his wisdom before the House with regard to the viability of the sale of the State Bank. But one had only to listen to his speech to be once again reminded of how little the Leader of the Opposition knows about finance.

The Hon. Dr Meredith Burgmann: What do you know? You do not know enough to look after your own superannuation.

The Hon. E. P. PICKERING: I do not go around on a regular basis holding out to the world that I am an economic guru - I am not - but the Leader of the Opposition does. Day after day he holds out that he knows something about economics, but he comes into this place and demonstrates conclusively, on a regular basis, that he does not have a clue. This is the man who, one minute after the State budget was tabled, made a speech in reply for the Opposition before the Leader of the Opposition in the other place could open his mouth. The document is reasonably thick, yet he told honourable members all about it. He is a speed reader who would leave us all for dead. This is the economic guru who knows everything. No wonder he got out of the lower House. He would not last five minutes in the lower House with the sort of nonsense he goes on with in this House.

The PRESIDENT: Order! The level of interjection is much too high.

The Hon. E. P. PICKERING: I was just making the point that honourable members in this House are tolerant of idiosyncratic behaviour. I remind the House of the terms of sale announced almost a year ago. The Government's preferred terms of sale are: one, finalisation of the sale in conformity with the timetable and, so far as possible, completion of payment terms in 1994; two, minimum continuing government guarantees on liabilities of the State Bank; three, sale of all the State Bank assets and transfer of all liabilities to the purchaser; four, maintaining the State Bank as a viable independent entity in its existing form; and, five, maintaining the existing staff and branch structure. If the economic gurus opposite had their way, they would have sold this bank to one of the big four banks. If that had happened, there

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would not be a chance in hell of the existing staff and branch structure remaining anything like it is at present. The Opposition could not care less about jobs or people. The sixth preferred term of sale is the maintenance of the State Bank headquarters in Sydney. The seventh is the opportunity for participation by the New South Wales public in the ownership of the resulting entity.

The Opposition, by opposing this bill, is opposing realistic protection for employees and customers; it is opposing the preservation of banking competition; it is denying the State Bank access to further capital and the opportunity to grow. This sale is the realistic solution for all stakeholders, and it is time for this House to recognise that. It is a realistic solution for New South Wales taxpayers because, even though the bank might earn its first ever commercial rate of return in future years, it is unrealistic to expect the bank to also compensate New South Wales taxpayers for the value of their guarantee. With bank liabilities of \$19 billion, the market value of this guarantee is assessed by New South Wales Treasury to be at least \$100 million a year.

No government bank can afford to pay an adequate return for the financial obligations of the taxpayers' guarantee. Private banks carry no similar burden. The sale is a realistic solution because the price negotiated takes into account the potential of the bank's future commercial earnings. The sale strongly reinforces the State's AAA credit rating, again helping to minimise the burden of interest costs. It reduces our liabilities in a sector where other State governments have paid dearly for mistakes. From the time the sale is completed, State Bank employees will be working for a bigger, more competitive and diverse organisation. Their career prospects under Colonial Mutual Life will be as good as, if not better than, they are under government ownership. Most important of all, they have a new direction, and the future of their institution is more certain as a result of this sale. Initially, customers will notice almost no difference - it is the same bank with a new owner. It will continue to operate and provide the same high levels of customer service and products.

In order to smooth the transition process, the Government guarantee will be extended for the next three years. Over time, customers will be served by a bank that has increased competitive capacity and a wider range of products and services. This is a benefit for all bank customers in New South Wales, not just State Bank customers. This sale will preserve and enhance banking competition in New South Wales. It will not reduce competition as others would have happen. This solution will preserve and strengthen the State Bank as a competitive force in home lending and other financial services. Other proposals, such as selling to one of the big four banks, would perhaps have delivered a higher price, but at what cost to competition, and at what cost to employees' jobs and branch closures?

This sale is a realistic solution for Colonial as well. It will provide a complementary business and will elevate the State Bank to the rank of Australia's fifth force in banking. Let me briefly summarise just how well this agreement with Colonial measures up against the Government's preferred terms. The sale is on the best available terms. The Opposition continues to complain that this sale is a fire sale. It seems the Auditor-General's findings are not good enough for Bob Carr and the Leader of the Opposition in this House, who was more than happy to have the matter referred to the Auditor-General.

The Hon. M. R. Egan: That was not at my instigation.

The Hon. E. P. PICKERING: The Labor Party supported its being referred.

The Hon. M. R. Egan: As did the Government.

The Hon. E. P. PICKERING: The Government accepted the Auditor-General's report and the umpire's decision.

The Hon. M. R. Egan: What about all the other comments you have made about the Auditor-General?

The Hon. E. P. PICKERING: I have not made one comment that I can recall about the Auditor-General.

The Hon. M. R. Egan: The Premier condemns him every second week.

The Hon. E. P. PICKERING: The Auditor-General said the process was competitive and led to a true market value being achieved. Fifty-four expressions of interest were received from around the world. When the bidding component of the sale process closed, several parties were known to be participating. Competitive bids were received. Colonial's bid was the highest and best in the way it was constructed. Other bidders ruled themselves out when they determined they could no longer meet the Government's preferred terms. The Opposition may not like to admit it, but the Government has sold on the best available terms. The price, which is only a part of those terms, has been clearly judged by a host of competent advisers to be fair and reasonable.

The only thing that stands in the way of finalisation of the sale in 1994 is the approval of the Parliament, which I trust will be forthcoming. The third preferred term of the contract is that of minimum continuing guarantees. We have dealt with this in a reasonable way. The fourth preferred term is that of sale as one entity. This has been achieved. Restrictions on resale have been negotiated within the terms of the agreement, as has maintenance of staff and branch networks. The Government has tested the market and has delivered a sale agreement on the basis it said it would more than 12 months ago. By contrast, the Opposition is left out in the cold, bereft of a feather to fly with in presenting any intellectual argument in this debate. Under those circumstances, it is high time for the Parliament to decide whether the State Bank of New South Wales should be sold. I commend the bill to the House.

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Question - That this bill be now read a second time - put.

The House divided.

Ayes, 20

Mrs Chadwick	Mr Mutch
Mr Coleman	Mrs Nile
Mrs Evans	Rev. Nile
Mrs Forsythe	Mr Pickering
Miss Gardiner	Mr Samios
Mr Gay	Mr Rowland Smith
Dr Goldsmith	Mr Webster
Mr Hannaford	
Mr Jobling	<i>Tellers,</i>
Miss Kirkby	Dr Pezzutti
Mr Moppett	Mr Ryan

Noes, 17

Mrs Arena	Mr Manson
Ms Burnswoods	Mr Obeid

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

Pairs

Mr Bull	Mr Johnson
Mrs Sham-Ho	Mrs Kite

Question so resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Part 1

The Hon. M. R. EGAN (Leader of the Opposition) [10.54]: I move:

No.1 Page 6, clause 8. After line 24, insert:

(8) Despite anything in the Share Sale Agreement, the Transaction Documents or any other instrument or in any other Act or law, the maximum aggregate amount recoverable from the State under the Share Sale Agreement and Transaction Documents in respect of all claims for warranty and indemnity is \$76,500,000. In this subsection, "claims" includes any actions, demands or causes of action (whether based in contract, tort or statute).

The purpose of this amendment is to ensure that a definite price is received for the sale of the State Bank. As honourable members are aware, the headline or nominal price is \$576.5 million. However, this amount is subject to all sorts of claims, including indemnities for failed loans; compensation for funding costs where non-performing loans do not cover the cost of funding; and all sorts of warranties, for example, building rectifications, litigation against the bank and penalties for breach of law. Under the share-sale agreement it is provided that the maximum total claims will amount to the purchase price - in other words \$576.5 million.

Under the sale agreement it is conceivable that the net price received by the Government can be zero. That would be an absolute nonsense. I do not believe any honourable member of this House would contemplate a sale under those terms. But that is what the contract provides and we have no way of knowing whether the indemnities and warranties for which we will be responsible will amount to \$10 million, \$100 million or \$500 million. It is an unacceptable situation for the Parliament to approve. For that reason, the Opposition moves this amendment. It means that after all amounts that the State might have to pay for these warranties and indemnities are paid, the taxpayers will receive at least \$500 million.

The Hon. R. S. L. JONES [10.57]: The Australian Democrats support this amendment. The bank is worth \$864 million to the people of New South Wales if retained, but only \$576 million to Colonial Mutual Life if purchased. I have no doubt, after looking at the forecast, the home loan portfolio and the conversion rates assumed for that portfolio, that in three or four years time the bank would be worth well over \$1 billion. This amendment should be supported; the Government should receive at least \$500 million. The bank is worth much more.

The Hon. E. P. PICKERING (Minister for Energy, and Minister for Local Government and Co-operatives) [10.58]: The House should clearly understand that the proposed amendment by the Opposition is merely an attempt to frustrate the sale process and delay the settlement of the sale contract. I say that with confidence even though I noted that when the Hon. R. S. L. Jones approached the podium to speak he did so with the benefit of a pocket calculator, which he has obviously used to work out these significant important political transactions. The Labor Party's amendment is unnecessary, uncommercial and inappropriate. Colonial Mutual Life is not bound to accept it. Effectively, it would require the Government to renegotiate the share-sale agreement. It is simply an attempt by the Opposition to frustrate the contract.

The Government was advised by its legal advisers, Clayton Utz, that the existing limitation for warranty claims, being the purchase price which is \$576.5 million, is usual commercial practice for sales of this nature. The Auditor-General and his advisers have estimated that, under the transaction agreement, the Government will be required to retain approximately \$25 million of the elements comprising the various indemnities and endorsements. We should ask, therefore, the rhetorical question: what conclusion would CML draw if the Parliament attempted to limit the total claim to \$76.5 million? The simple answer is that the Government is not confident that the Auditor-General's estimates are correct.

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The Hon. M. R. Egan: The Government is not confident?

The Hon. E. P. PICKERING: If the Government agreed to limit the total claim, it would not be confident that the Auditor-General's estimates were correct. That would create doubts for Colonial Mutual. Colonial Mutual would not accept a lower limit on the qualification because it would require assurances that the Government was confident of the financial position at the date of sale. The Auditor-General has confirmed that view in both the audit accounts as at 3 September 1994 and in his special audit report released on 18 November 1994. Hence the Government can be confident that the Auditor-General's estimates are correct. The Opposition's amendment would require the Government to renegotiate the contract. CML is not bound in any way to accept it. I again refer to the Auditor-General's conclusion on page 4 of his report where he stated:

The consideration to be received by the State clearly exceeds the financial and economic return that the State would obtain if it remained the owner of the State Bank.

Even the Leader of the Opposition would be able to comprehend those clear-cut words. The Auditor-General continued:

This view is supported by an analysis of all material issues, (guarantees, warranties, etc) including the relationship between the consideration for the sale of the State Bank with the Bank's expected future profits and with its net assets.

The Auditor-General, on page 27 of his special report, stated:

Overall I am satisfied that the arrangements for these indemnities, guarantees and warranties are commercially appropriate and equitable from the State's point of view.

The CHAIRMAN: Order! I draw the attention of honourable members to the high level of noise in the Chamber.

[Interruption]

The CHAIRMAN: Order! I am making a ruling on exactly such an occurrence. Members should limit their conversation. This is an important bill. It is crucial for members and for Hansard to be able to hear what is being said in Committee.

The Hon. E. P. PICKERING: Given the clear statements made by the Auditor-General there is no

intellectual ground for the amendments that have been moved by the Opposition. The Leader of the Opposition does not have a platform upon which to stand.

The Hon. M. R. EGAN (Leader of the Opposition) [11.03]: Is the Minister prepared to assure honourable members that the total the State will have to pay under the contract, which will make the State liable for warranties and indemnities, will be no more than \$76.5 million? Can the Minister assure honourable members that that will be the maximum the State will have to pay? If the Minister is not prepared to give that assurance he cannot expect the Parliament to give its approval to a contract that will permit the whole of the sale price to be used to meet these indemnities and warranties.

The Hon. E. P. PICKERING (Minister for Energy, and Minister for Local Government and Co-operatives) [11.04]: The Leader of the Opposition must refer to the Auditor-General's report. The assurances he is seeking are to be found in that report. The Leader of the Opposition knows as well as I do - this is the reason for his amendment - that if we accepted the amendment it would simply require the whole contract to be renegotiated. We would have to start from scratch.

The Hon. M. R. Egan: Give us an assurance concerning the maximum that we will be up for.

The Hon. E. P. PICKERING: The assurances the Leader of the Opposition is seeking in the contract are in the Auditor-General's report.

The Hon. M. R. EGAN (Leader of the Opposition) [11.05]: The Government has given no assurances and there are no assurances in the Auditor-General's report. The Auditor-General estimated certain figures for the warranties in respect of the failed loans, indemnities, and warranties in respect of litigation and building rectification. The Auditor-General made an estimate for all those matters. On my calculation the estimate was of the order of \$70 million or \$80 million, but it would depend on his estimate of the volume of failed loans being accurate. Under the contract there is no limit to the cost to the Government of those warranties and indemnities. Surely the Government is not asking this Parliament to say, "We want you to approve the sale of the State Bank for \$576.5 million but, at the end of the day, the price may be zero after the warranties and indemnities are paid"? If the Government expects this Chamber to pass this legislation it should be prepared to give some sort of assurances.

Reverend the Hon. F. J. NILE [11.06]: I understand why the Leader of the Opposition has moved this amendment, but his statements have been inconsistent. He argued that the Government would be getting a very low price because, if retained, the bank would make \$150 million next year and \$200 million and \$300 in proceeding years. The Leader of the Opposition is now saying that the Government will have to pay out a great deal of money. The bank will make profits and the sale will proceed on that basis. If the legislation is amended in the way proposed by the Opposition it will frustrate the sale of the State Bank. It has been the policy of the Opposition to frustrate the sale of the State Bank. If that occurs we will be back where we started.

The Hon. M. R. EGAN (Leader of the Opposition) [11.07]: The point that was not made by Reverend the Hon. F. J. Nile is that, under this contract, the bank will take the profits and the taxpayers will take the losses. The taxpayers will be responsible for payment of 90 per cent of the failed loans beyond the first \$60 million. They will be up for all the warranties that I have mentioned. And they will be up for all the warranties in respect of things like building rectification, regardless of the profit of the bank. The bank might make \$10 million a year in profit, or it might make \$5 million. Regardless of that, the taxpayers will be up for the indemnities and the warranties. All I want is a limit.

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The Hon. Virginia Chadwick: After the first \$60 million?

The Hon. M. R. EGAN: After the first \$60 million, certainly. The figure after that is anybody's guess. Surely that is something on which the Parliament needs an assurance, otherwise we will be signing a blank

cheque.

The Hon. E. P. PICKERING (Minister for Energy, and Minister for Local Government and Co-operatives) [11.08]: We have just been provided with an insight into what can only be described as voodoo Eganomics. We have been told that the bank will take the profits and that we will be left with the liabilities. I thought we were getting paid something for the sale of the bank. I thought we were given a sale price.

The Hon. M. R. Egan: It could be zero if there is not a limit.

The Hon. E. P. PICKERING: I am surprised! The Leader of the Opposition is playing with this Committee. He well knows that we are involved in an area -

The Hon. M. R. Egan: You cannot give an answer.

The Hon. E. P. PICKERING: I can give an answer. The Leader of the Opposition knows full well that in dealings in this area people must make estimates. The Leader of the Opposition knows that. Because of those circumstances, I am not able to give cast iron assurances. Under those circumstances, I refer the honourable member to the fact -

The Hon. M. R. Egan: Support my cut-off.

The Hon. E. P. PICKERING: The Leader of the Opposition should settle. I refer him to the fact that the best estimate is supplied by the independent Auditor-General. His estimate is a cost of \$25 million. The Government stands by the estimate of the Auditor-General which, irrespective of the pocket calculator of the Hon. R. S. L. Jones and the voodoo Eganomics of the Leader of the Opposition, is a better estimate than anything members opposite can provide.

Question - That the amendment be agreed to - put.

The Committee divided.

Ayes, 17

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

Noes, 19

Mrs Chadwick	Rev. Nile
Mrs Evans	Dr Pezzutti
Mrs Forsythe	Mr Pickering
Miss Gardiner	Mr Ryan
Dr Goldsmith	Mr Samios
Mr Hannaford	Mr Rowland Smith
Mr Jobling	Mr Webster
Miss Kirkby	<i>Tellers,</i>
Mr Moppett	Mr Coleman

Mrs Nile

Mr Mutch

Pairs

Mr Johnson

Mr Bull

Mrs Kite

Mrs Sham-Ho

Question so resolved in the negative.

Amendment negatived.

Part agreed to.

Part 4

The Hon. M. R. EGAN (Leader of the Opposition) [11.18], by leave: I move the following Opposition amendments in globo:

No. 2 Page 9, clause 15, line 12. Omit "as at that day".

No. 3 Page 9, clause 15, line 17. Omit "as at that day".

No. 4 Page 9, clause 15. After line 34, insert:

(6) Employees of the Bank who become, by force of this section, members of the division of membership of SBSBS that provides the same level of benefits as are provided by membership of the State Superannuation Fund are entitled as members of SBSBS to benefits that are no less favourable than those to which members of the State Superannuation Fund are entitled from time to time.

No. 5 Page 10, clause 16, lines 3-4. Omit "as at that date".

No. 6 Page 10, clause 16. After line 24, insert:

(6) Employees of the Bank who become, by force of this section, members of Division B of SBSBS are entitled as members of SBSBS to benefits that are no less favourable than those to which members of the State Authorities Superannuation Fund are entitled from time to time.

The purpose of these amendments is to ensure the entitlements to superannuation that are currently enjoyed by State Bank employees who are members of the current superannuation schemes. As I understand it, the contract for sale provides that at the time of settlement clone schemes will be established to provide the same entitlement to State Bank employees as they would enjoy as members of the current superannuation schemes to which they belong. The concern of employees and of the State Bank employees' union is that whilst there is a requirement for the clone funds to be set up and in existence at the time of settlement of the contract, there is no guarantee that the benefits under those schemes will continue.

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In other words, whilst next month someone may be entitled under the new clone schemes to those same benefits, there is no guarantee that in three months, six months or 12 months the entitlement benefits will not be reduced. The purpose of the amendments is to ensure that under the new superannuation agreements that are meant to mirror the existing agreements State Bank employees will be able to retain those entitlements for as long as they remain employees of the bank.

The Hon. R. S. L. JONES [11.19]: On behalf of the Australian Democrats and on behalf of the employees of the State Bank, I support these amendments.

The Hon. E. P. PICKERING (Minister for Energy, and Minister for Local Government and Co-operatives) [11.19]: These amendments are neither appropriate nor necessary. The Government negotiated with Colonial Mutual Life to establish clone superannuation schemes for approximately 1,500 employees who are members of the State Superannuation Fund and the State Authorities Superannuation Fund. The bank will put in place, by the time of completion of the sale agreement, a corporate trustee pursuant to the superannuation and investment supervision legislation whereby trustees equally representing employers and employees will be established. Any change in the superannuation scheme will require the majority support of the trustees. This is effective and appropriate protection for employees and is fully consistent with Commonwealth legislation. These amendments ignore this protection and seek to link the clone scheme to changes in the two closed Government schemes. This imposes an element of risk on both the bank and its employees that is not acceptable and not commercial. The Government opposes the proposed amendments.

Amendments negatived.

Part agreed to.

Part 8

The Hon. R. S. L. JONES [11.21], by leave: I move the following Australian Democrat amendments in globo:

No. 1 Page 13. After line 38, insert:

Land at Bonville owned by the Bank

27. (1) Any estate or interest of the Bank at the commencement of this Act in the land described in Schedule 3 is vested in the Crown.

(2) So much of the land described in Schedule 3 as is owned by the Crown (including land vested in the Crown by the operation of subsection (1)) is reserved as Bongil Bongil National Park on the commencement of this Act.

(3) The land reserved as a National Park by this Act is, for the purposes of the National Parks and Wildlife Act 1974, taken to have been so reserved by proclamation made under section 33(2) of that Act.

(4) A reference in the National Parks and Wildlife Act 1974 to the publication of a proclamation under section 33(2) of that Act is, in relation to a reservation under subsection (2), taken to be a reference to the enactment of this Act.

(5) Section 35 of the National Parks and Wildlife Act 1974 does not apply in relation to a reservation under this Act.

(6) All existing interests (within the meaning of section 39 of the National Parks and Wildlife Act 1974) in relation to so much of the land described in Schedule 3 as is reserved as a national park by this Act are revoked on the commencement of this Act.

(7) A revocation effected by subsection (6) does not affect anything done or omitted to be done before the commencement of this Act.

(8) The Bank and any other person with an interest in the land referred to in subsection (2) is to be compensated, out of any money legally available or to be appropriated by Parliament for the purpose, for any estate or interest vested in the Crown by the operation of subsection (1) or existing interest revoked by the operation of subsection (6).

(9) The vesting of any estate or interest of the Bank in the Crown and the revocation of any existing interest in land under this section is taken to have been effected by a notice under section 19 of the Land Acquisition (Just Terms Compensation) Act 1991 and the Bank and any person with an interest in the land before the commencement of this Act is entitled to compensation in accordance with that Act.

SCHEDULE 3 - LAND AT BONVILLE

(Sec. 27)

1. East Bonville land, east of Pine Creek and south of Bonville Estuary:

Lot No.	D.P.	Area (ha)	
339	755553	198.70}	
357	"	162.30}	
307	"	40.47}	Total 466.22 ha
309	"	40.47}	
78	"	24.28}	

2. West Bonville land, west of Pine Creek and south of Bonville Creek:

76	755536	28.73}	
173	"	74.46}	
172	"	25.09}	
45	"	60.70}	Total 324.72 ha
1	34362	18.92}	
52	801844	56.49}	
102	791416	60.33}	

3. North Bonville land, north of Bonville Creek:

Bonville Beach Hardwoods P/L land (now in receivership)

2	815436	50.21}	
3	"	10.18}	
4	"	7.99}	Total 117.63 ha
10	815434	26.85}	
11	"	22.40}	

Total land available - 908.57 ha

This amendment is to cover land at East Bonville, West Bonville and North Bonville -

The Hon. E. P. Pickering: On a point of order: the honourable member has been kind enough to circulate the details of his amendments, and I am therefore fully aware of them. Having studied the amendments, I draw to your attention, Mr Chairman, the provisions of Standing Order 175, which I believe the honourable member is transgressing by moving the amendment.

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The Hon. R. S. L. JONES: On the point of order: this land at Bonville, which I have been seeking to have declared national park for seven years, is owned by the bank; it is part of the assets of the bank. There is no reason why the amendment should not be moved, debated and voted on in the Chamber.

The CHAIRMAN: Order! The Minister for Energy, and Minister for Local Government and Co-operatives has taken a point of order. The point of order relates to the amendment moved by the Hon. R. S.

L. Jones proposing the insertion of a new clause 27 in the bill. The question whether the amendment is admissible turns upon the meaning of Standing Order 175. That standing order deals with three distinct issues. The first issue is that of relevancy, the second is concerned with reversing the principle of a bill as read a second time, and the third issue is amending the title if an amendment is not within the scope of the bill. In regard to this amendment, the question of relevancy arises in regard to the proposal to insert a new clause. Standing Order 175 states in part that:

A new clause or schedule may be proposed if relevant to the subject matter of the Bill, or pursuant to any instruction, and be otherwise in conformity with the rules of the House.

In order to determine whether the amendment is admissible it is necessary to look at the subject matter of the bill. The long title of this bill states:

An Act to authorise the sale of State Bank of New South Wales Limited; to amend the State Owned Corporations Act 1989 and certain other Acts; and for related purposes.

Having examined the long title and other parts of the bill, it seems quite clear to me that this bill has two main purposes: firstly, to authorise the sale - and I emphasise the word "sale" - of the State Bank; and secondly, to remove the name of the State Bank from schedule 1 of the State Owned Corporations Act 1989, thus permitting the sale of certain shares. The amendment of the Hon. R. S. L. Jones proposes the insertion of a new clause 27 vesting any estate or interest of the bank in land at Bonville in the Crown and reserving the land as Bongil Bongil National Park. The substance of this amendment is to reserve land as a national park. Since the scope of the bill is very restricted, the extent to which it may be amended is limited. I therefore rule the amendment out of order on the ground that it is not relevant to the subject matter of the bill as provided for under Standing Order 175. As a consequence the second amendment cannot stand alone and it is therefore out of order as well.

Part agreed to.

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

SENTENCING LEGISLATION (AMENDMENT) BILL

Bill read a third time.

POLICE SERVICE (RECRUITMENT) AMENDMENT BILL

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [11.30]: I move:

That this bill be now read a second time.

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

Leave granted.

Recent debate highlights the recognition that members of this Chamber have of the importance of facing the challenges of effective policing in a multicultural community.

Those challenges include the need to both respond to the needs of these communities in a positive and culturally appropriate manner, and to protect them from the criminal elements within them.

The Government and the police service have a view, which is widely supported, that one of the best strategies for increasing the ability of the police service to address these challenges is to increase the number of officers in the service that have an ethnic background.

The police service is moving to encourage greater recruitment at a base level from ethnic sections of the community.

However, the current legislative scheme prevents the recruitment of highly skilled and suitably qualified officers at levels above probationary constable and outside the senior executive service.

This means that the New South Wales Police Service is being denied the advantage of gaining instantaneous expertise, by recruiting at a senior level people who already have the balance of policing experience, cultural awareness, and specialised knowledge that we are seeking to develop.

This bill seeks to rectify that situation, by providing a limited scope for the police service to recruit persons with both policing and specialist skills into the police service at a rank commensurate with their experience.

The bill seeks to provide an opportunity, to be used only in defined circumstances, to import skills into the police service that would otherwise go lacking.

However, the bill also gives recognition to the important principle of selection on merit, and ensures that there is no denial of opportunity for advancement of serving officers.

Section 65A will make it clear that the only basis for opening a position for external recruitment will be the need for the incumbent to have special knowledge skills or experience, that are not readily available within the police service.

This section requires that possession of the identified skills is an essential criterion for eligibility for the position.

It will be on their capacity to satisfy these requirements that all applicants, whether internal or external, will be judged.

It should be noted, however, that no serving officer is precluded from applying for a position that has been designated for external recruitment.

And again I emphasise that appointment will be made on merit. The person best able to fulfil the requirements of the position, whether a serving officer or not, will be the successful candidate.

The bill contains a provision that requires an officer who gains lateral entry into the police service to serve a minimum period in a designated position before becoming eligible to apply for mainstream positions.

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The purpose of this provision is to ensure that designated positions are not abused and used merely as a means of obtaining or providing a quick, backdoor entry into mainstream policing positions.

Initially it was proposed that the qualifying period would be five years. However, in the other place it was suggested that this length of time may act as a disincentive, and the Government therefore agreed to change the minimum period of service in a designated position to two years.

In the other place the Government was also pleased to agree to some other constructive and positive amendments to the bill.

These included the addition of provisions to protect appointees against undue extension of a probationary period, and to require the Governor to approve the dismissal of a commissioned officer during a probationary period.

The Police Board was also given a role in the identification of appropriate designated positions, the manner in which they should be advertised, and appointment of external applicants. While the Government has reservations as to whether these are decisions that the

board needs to be involved in, it has nevertheless agreed to the amendments in the interests of advancing this important initiative.

Not only is this bill important, it is sensible, balanced and deserving of support from all members of this House.

It is about enhancing the resources of the police service so as to better equip it to make the streets of New South Wales safer and I commend the bill to the House.

The Hon. R. D. DYER [11.31]: The Opposition supports the bill. The purpose of the legislation is to enable the appointment of persons who have special skills, qualifications or experience, who are not already New South Wales police officers, to specially designated positions of the rank of sergeant, inspector or superintendent in the New South Wales Police Service.

The PRESIDENT: Order! There is too much noise in the President's gallery.

The Hon. R. D. DYER: Only positions at the base rank of constable and positions within the Police Service senior executive service can be advertised and filled outside the Police Service. Positions that fall in between, from the position of senior constable up to and including superintendent, must be advertised and filled from within the Police Service. The consequence is that there is a range of positions extending from senior constable up to superintendent to which no external appointments can be made, although there may be qualified outsiders.

The purpose of the bill is to permit lateral entry to the Police Service. That is a novel concept for New South Wales, although some overseas police services, including the London Metropolitan Police, permit lateral entry. Needless to say, that is a matter of some controversy within the New South Wales Police Service, particularly with regard to the industrial organisations of employees within the Police Service. It is against the policies of the Police Association of New South Wales and the Commissioned Officers Association of New South Wales to permit lateral entry. I regret, as does my colleague the honourable member for Liverpool, that the Government did not, on my advice, consult either of those organisations before introducing the legislation in another place.

Notwithstanding what I have said in that regard, the Opposition supports the bill because lateral entry will facilitate the introduction to the Police Service of some new blood which will be of use in certain circumstances which may arise. One prominent example that springs to mind is the situation in the Cabramatta area following the unfortunate murder of our former colleague Mr John Newman. There is a perceived need to recruit police who have knowledge of a culture and who can deal with, say, Asian-based crime by the triads. That is only one example.

The Opposition supports lateral entry to the Police Service to deal with special situations. I know, however, that the proposal in the bill does not deal with the real problem of the present composition of the Police Service, which does not reflect in many respects the society that it serves. We live in a multicultural society in Sydney and in New South Wales, but the Police Service does not reflect that. If one drew a parallel with the New York Police Service, for example, one would find that many more ethnic officers represent, in approximate proportions, the ethnic population of New York City.

Lateral entry as permitted by the bill will provide benefits to the Police Service from an intelligence and tactical perspective. However, it is unlikely that lateral entry will have any direct impact on street policing. That matter needs to be addressed. In due course the Police Service will change its composition at the ground floor or constable level. Until that happens, the police officer in the street will not reflect the society that the Police Service serves. The bill was improved in another place. In the original bill the power to designate positions to which appointments may be made was to be given to the Commissioner of Police. The Opposition successfully amended the bill in another place so that the Police Board will have that power. The Police Board, which is responsible for promotion and integrity, should more properly have that power vested in it.

In addition, the bill provides that the maximum number of police officers employed in the Police Service

will be determined by the Treasurer under section 9. Under the legislation the authorised strength of the Police Service will be increased by the number of special designated positions. Officers who enter the Police Service through lateral appointments will be in addition to the authorised strength. That should mollify the concerns of the industrial organisations representing ordinary and commissioned police officers. The bill is now in a proper and appropriate form. We wish the legislation well. However, I note that until the composition of the Police Service at the constable level is changed, it is unlikely that the overall composition of the police force will change markedly with regard to street policing. However, we believe that will happen in due course. It needs to happen so that the incidents that have occurred recently, such as the unfortunate incident at Tempe park that was commented on by the Ombudsman, can be prevented. The Opposition supports the bill.

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The Hon. FRANCA ARENA [11.40]: I support the remarks of my colleague the Hon. R. D. Dyer. As he said, the purpose of the bill is to enable the New South Wales Police Service to recruit into the Police Service persons with both policing and specialist skills at a rank commensurate with their experience. As the Minister for Police said in his second reading speech in another place on 15 September:

... only positions at the base rank of constable and positions within the Police Service senior executive service can be advertised and filled outside the Police Service.

Positions from senior constables up to and including superintendent must be advertised and filled from within the Police Service, regardless of how well qualified outsiders are, how great the need is for their skills and how valuable their contribution would be. It is evident from the bill that the intention of the Minister for Police is to make circumstances more attractive to potential overseas officers whose specialist knowledge and expertise, which is not available within Australia, can be used to counter crime in and against ethnic communities in the State. As the Minister for Police said in his second reading speech in another place, again on 15 September:

The purpose of this bill is to put some flexibility into those parts of the Police Service Act that currently prevent lateral entry into the ranks ... it only seeks to provide an opportunity, to be used ... to import the skills into the Police Service that would otherwise go lacking.

Thereby providing a mechanism for external recruitment when certain conditions exist. I support the idea that at present only people from certain areas can understand the dynamics of particular ethnic groups. It has been proved in the United States of America and many other countries that the best people to fight the Italian mafia were the Italian-American police; the best people to fight the Japanese mafia were the Japanese-American police and the best people to fight the Chinese triads were the Chinese-American police. It makes sense to have police with specialist skills from different countries join the New South Wales Police Service to assist it with special crimes.

As I said in my speech during the discussion on the matter of public importance on police and the ethnic communities, I would prefer to have more police from non-English speaking backgrounds with specialist training in the New South Wales Police Service, but this will have to be a long-term objective because the Greiner Government when it came to office in 1988 did not use the information it had at its disposal from a multitude of reports to allocate moneys to these areas. In the short term I support the bill, as overseas specialist skills are required now, but I hope that appropriate training will be provided to trainee police officers and sworn members of the New South Wales Police Service so that the importation of such skills will not be necessary in a few years.

I am glad that amendments proposed by my colleague the honourable member for Ashfield have passed the Committee stage in the other place. As a result of the amendments, in the case of special designated positions the commissioner will be required to advertise a vacancy as the Police Board directs. He cannot make an appointment to the position without the recommendation of the Police Board, nor can the Police Board recommend the appointment unless, in the opinion of the board, the applicant has the greatest merit. I am glad that the Opposition's amendment in another place, that the maximum number of police officers to be employed

in the Police Service is to be increased by the number of special designated positions, was successful.

The bill will enable the police to have a more effective role in their attempts to reduce the activities of organised crime and international contacts, but a substantial allocation of money is needed to enable them to fulfil their pro-active community policing role. There needs to be a considerable increase in the number of sworn police officers of non-English speaking background, because some members of ethnic communities do not trust the police and consider some officers to be racist. Whether that reputation is deserved is not the question; it is the perception of the community. We need people with the best qualifications, for special designated positions, requiring intelligence and tactics, but they must have the trust of the community to assist in the collection of intelligence. Otherwise, ethnic communities from countries that have secret police will continue to regard the police in New South Wales in that light. There will be no police-community cooperation, and inroads into ethnic crime against communities will not be made. I express my support for the following comments the honourable member for Liverpool made in another place on 16 November when speaking to the bill:

Understanding cannot be taught at a police academy. We are trying to educate and to train police. Perhaps it is time we reconsidered and left the educating of people who want to be police to professionals in that field. Once they have been educated, through programs to address disadvantage and lack of opportunity, they can be trained as police.

In addition to police education on social issues, there must also be community education of ethnic communities on the role of police in Australian society. Australia's multicultural society is an asset. We live in an interesting and exciting society. We share languages and cultures from more than 235 ethnic communities, speaking approximately 90 languages. It would be wonderful if people coming to Australia had left behind them the more negative aspects of their culture, but that is not human nature. We have to face the fact that there are people in all groups whose behaviour is not acceptable. Lennie McPherson has an ethnic background, probably English or Irish. As I said before, I hope that in 10 years time, when the number of police of non-English speaking background has increased and they are well trained in the areas I have outlined, there will be no need for a bill of this kind.

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The Hon. ELISABETH KIRKBY [11.46]: On behalf of the Australian Democrats I support the Police Service (Recruitment) Amendment Bill. The bill will allow for the external recruitment of people with special skills and qualifications to the New South Wales police force. Under the Police Service Act, only positions of the base rank of constable or positions within the Police Service senior executive service can be advertised and filled outside the Police Service. Positions from senior constable to superintendent must be advertised and filled within the Police Service. For some time there has been growing recognition that relationships between the New South Wales Police Service and ethnic communities are fraught with problems. The Ombudsman is investigating police and ethnic relations, after identifying numerous instances of racist behaviour among police.

Perhaps the incident that has garnered the most publicity was the Turramurra railway incident, when four Asian students were arrested and charged after a fight, even though eyewitnesses reported that they were the victims rather than the attackers. The Ethnic Affairs Commission recently completed a parallel inquiry following a confrontation at an Arab Day carnival at Tempe. The confidential draft of the report, as outlined in the *Australian* of 19 September, found: inadequate use of translators, leading ethnic communities to believe police are unjust and corrupt; people being detained without being advised of their rights or knowing what they had been charged with; use of family members as interpreters in domestic violence situations; failure to request interpreters for people lodging complaints against police; and delays of up to two weeks following requests for interpreters to take victim statements. The report by the Ethnic Affairs Commission has been tabled in the Parliament and it has been the subject of debate.

The perception that police are insensitive means that communities, and ethnic communities in particular, are reluctant to assist when police seek assistance. There have been a number of Government initiatives to tackle the issue of increasing police responsiveness, including education programs and the appointment of ethnic

liaison officers at patrol level. As the reports and incidents to which I have just referred make clear, much more needs to be done. Having a police force that reflects the composition of the community it serves is an extremely effective way of increasing police sensitivity. According to the 1991 census, 15 per cent of the population in New South Wales is from a non-English speaking background; in Sydney the proportion is 21 per cent.

In 1993 non-Anglo-Saxons made up only 8.3 per cent of police recruits. People of an Asian background make up 5 per cent of the New South Wales population, but this year only 1.5 per cent of recruits have been Asian. Height and weight restrictions have been removed but special emphasis continues to be given to the written English components of an applicant's tertiary entrance rank while skills in languages other than English are not recognised. According to the Australian Chinese Community Association, factors that militate against more recruits are the status of work in the police and armed forces and the fear of racism. External recruitment to secure specialist services to date has been hindered by the inability to offer more than temporary employment or employment in administrative or executive positions.

I agree with the Minister that the current conditions are unsatisfactory not only to external potential recruits but also from the point of view of discipline, accountability and management. I basically agree with the Government's scheme proposed in the bill. External recruitment will be possible only where special skills and qualifications or experience not generally available in the Police Service are required. Furthermore, according to the original draft of the bill, an officer who gains lateral entry must serve five years in a designated position before becoming eligible to apply for a mainstream position. Two bones of contention arose when the bill was first introduced. The first was whether external appointment should be made by the police commissioner or by the Police Board.

The Australian Labor Party and the honourable member for South Coast both believed that giving the reconstituted Police Board the final say would help overcome resistance within the senior ranks of police to outside officers. But the Government held that it was only appropriate for the police commissioner to be responsible for appointments below the ranks in the senior executive service. The second contentious issue related to the length of time officers should serve before being eligible for promotion. The honourable member for South Coast argued that external recruits should serve for two years rather than five years before being eligible for promotion in order to make the offer more attractive to the most experienced officers. Certainly, a requirement to stay in the position for five years would quite likely have been stifling.

I am informed that the amendment proposed by the honourable member for South Coast to reduce the five-year term to two years was accepted by the Government, so now an external recruit will have to serve only two years before being eligible for promotion. I applaud the Government for agreeing to this compromise. It will make it much easier for the Government to recruit to the service officers from ethnic backgrounds with possibly many languages at their disposal, far more languages than an Anglo-Saxon officer might have. That would be to the advantage of the entire community, not only to ethnic groups. I support the bill.

The Hon. ELAINE NILE [11.54]: Call to Australia supports the Police Service (Recruitment) Amendment Bill. We have some reservations but believe it should be given a fair trial. We are concerned that local officers should not miss out on

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their just right to promotion and that Asian officers from Hong Kong should be used only in a specialist role to combat organised Asian crime gangs, such as the triads. Lateral entry of police at senior ranks has been a matter of concern for some time. Early in 1994 consultations were undertaken with the police unions on a proposal almost identical to that now before the Parliament. The unions did not support the proposal, and as enterprise negotiations could have been jeopardised, the proposal was put on hold.

However, these new positions must be in addition to current staffing levels. The lateral entry proposal is of particular interest to the Asian investigators who have been working with the Drug Enforcement Administration and the Crime Commission. Initially, five officers were recruited from Hong Kong and worked under contract with the Crime Commission. When the contract expired, three of the investigators opted to

return to Hong Kong as no permanent positions could be offered to them. The remaining investigators are currently temporary employees of the Police Service. This means they do not have the powers of police officers. An article in the *Sydney Morning Herald* of 14 September stated that New South Wales is missing out in the overseas recruitment stakes. An article in the *Australian* of 19 September stated that the ethnic composition of the Police Service is not representative of the community, which leads to problems in policing.

The Police Service needs to be able to attract and employ police officers with valuable specialised knowledge that is not available within existing resources. Providing lateral entry opportunities at senior ranks will allow this to happen. Experience has shown that without the opportunity to offer permanent positions with a career path, New South Wales is not competitive in attracting officers of the calibre it is seeking. Attention is often focused on the composition of the Police Service and the limited number of officers of ethnic background. A by-product of this proposal is that it is likely to result in the introduction of some senior officers of ethnic background to the Police Service. This can only help eradicate the perception of racism within the Police Service and they will provide role models for younger recruits.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [11.57], in reply: I thank honourable members for their support of the bill. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ADJOURNMENT

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [11.58]: I move:

That this House do now adjourn.

TREE PRESERVATION ORDERS

The Hon. PATRICIA FORSYTHE [11.58]: For the second time in less than four years a major storm has cut a path of damage through the Ku-ring-gai Council area and many other areas. Sunday's storm, which lasted only minutes, had all the force of a cyclone. The damage across the whole State has been estimated at \$20 million - more than our society can afford. Much of the damage, especially in Ku-ring-gai and neighbouring council areas, is a direct result of trees falling on houses and other property, including cars. In other words, much of the damage may have been prevented. Trees are one of the special features of Ku-ring-gai. Few in the community, least of all me, would want that special feature of the area to be lost. But residents should not have to live there at their peril. Ku-ring-gai Council and other councils with a tree preservation policy need to be smarter in how they implement their policy.

It is not enough to exempt trees within, say, three metres of a dwelling when many trees in Ku-ring-gai close to houses and other property are greater than, say, 20 metres in height and beyond the arbitrary limit. A number of lessons should be learnt from the impact of these storms - lessons that could produce a smarter policy. Though the council at any time can overrule its own policy, there are plenty of stories doing the rounds in Ku-ring-gai of residents having sought to have trees removed or heavily pruned because they were looking unhealthy, being denied this by council and seeing them come down in the storm. A smart approach would be for council officers to listen to residents especially when they say that the health of a tree is deteriorating. Failure to listen produces disgruntled residents who lose enthusiasm for the environment, especially if those trees subsequently fall over.

Councils, too, have to be smarter in the advice they give residents about the types of trees to plant. Native

trees are excellent for drought resistance, but many are shallow rooted and susceptible to strong winds. A drive around Ku-ring-gai after the Sunday storm showed trees uprooted everywhere, most of them various types of eucalypts and many among the tallest trees in the area. Councils should be advising residents about the appropriate trees to plant rather than allowing the hit-and-miss approach of many amateur gardeners. So that a smart approach can be adopted, the council could give such information to residents in its annual rate notice mailing. Sunday's storm coming on top of January's bushfires and the 1991 storm could have an impact on the regard people in Ku-ring-gai have for trees. That would be a great pity, but there has to be a better approach and a better balance.

The Ku-ring-gai forest-like landscape should not be maintained at the cost of wrecked houses and people being put at risk of injury or death. That would simply be stretching community goodwill. For instance, policy allows branches overhanging a building to be lopped, but residents frequently fail to get permission to lop branches overhanging a yard or

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pool. Falling tree limbs, even if not particularly large, can injure people. A policy that seems to put trees first is not smart. These two storms and the January bushfires have placed community focus on the fragility of the environment and our capacity to live in harmony with our surroundings. Councils have a leadership responsibility so that people can enjoy their environment while genuinely wishing to preserve and enhance it. Councils have wanted a greater role in the environmental debate. Dealing with tree preservation in a smart way will benefit the community.

TAREE CHAMBER MAGISTRATE

The Hon. JAN BURNSWOODS [12.01 a.m.]: I raise an issue of continuing concern to many people in Taree. It relates to the manner in which the local chamber magistrate, Mr Paul Couch, carries out his job. I have thought long and hard before speaking about a person who is, in effect, a public servant. However, Mr Couch carries out his job in a way that is badly affecting the lives of women in circumstances where they need help, not hindrance. Normal channels for resolving this problem have proved fruitless. Although I too have now formally complained, I do not expect a better result. The complaints against Mr Couch are about the idiosyncratic and inconsistent way in which he carries out his duties. In particular, he appears to have a strong gender bias with a tendency to lecture women on their marital duties and relationship instead of giving them what they are applying for. I stress that these complaints relate to women; men do not appear to suffer the same problems.

Often women want an apprehended violence order or an order to obtain goods issued against a violent partner. Women in this situation are distressed enough and do not need a chamber magistrate lecturing them and often refusing their request for an order based on his own prejudices. At best women are treated in a condescending manner; at worst, in an adversarial way. I shall give some examples. One woman five months pregnant with her second child who had to leave her home without her possessions because of severe domestic violence, taking with her a one-year-old child, was told by Taree police that she could seek a notice of intent to obtain goods from the chamber magistrate. When she did so, Mr Couch refused to issue the order and accompanied his refusal with the following remarks:

The police don't know what their talking about. Do you expect the whole world to stand on its head while you sort out your marital problems? Can't you reconcile?

It was only when her solicitor sent her back to Mr Couch with a card that the order was issued. The second incident concerns a women who, following a violent separation from her husband, was advised to obtain a restraining order from the chamber magistrate. She reported that Mr Couch treated her as if she were the one at fault. She felt as if she were under interrogation. Mr Couch asked her, among other things, if she had provoked her husband, as some women do. He suggested that she was being emotional or exaggerating. He also told her that she would return to her husband and that she would be wasting his and the court's time by obtaining a restraining order.

The third case concerns a local youth worker who witnessed this chamber magistrate put a 14-year-old girl in an impossible position by insisting that she take out an AVO against her father. Police are supposed to take out apprehended violence orders. A 14 year old should never have been placed in the position of privately prosecuting her father in court. These examples are only representative of the many complaints against Mr Couch. Over a period complaints have been made through the proper channels, that is, to the Director of Local Courts Administration and to the Minister for Justice. In response the Minister assisting the Minister for Justice, Mr Photios, assured the complainant, Manning District Emergency Accommodation, that Mr Couch understood the sensitive nature of family law related issues and that members of the public are dealt with in a courteous and professional manner. That is typical of the bland, stonewalling response to complaints about Mr Couch. Those who have had the misfortune to be in circumstances where they must seek an order relating to domestic violence are left feeling perplexed and betrayed.

Manning District Emergency Accommodation, the local women's refuge, is in a unique position to know what is going on. It has done its best to advocate for these women, but to no avail. It is truly puzzled as to the immunity Mr Couch appears to enjoy in the face of many complaints. Process and accountability is at issue. It is ironic that so much of the legislation before honourable members is sponsored by the Attorney General, yet what is the use of all this legislation if the implementation processes are fatally flawed? Only last year, this Parliament passed laws to strengthen access to AVOs. What does this mean, though, if the very people the legislation is intended to help are denied access to its benefits because they come before a chamber magistrate who fails to properly administer the legislation?

Last year at a rural doctors association meeting a doctor stated publicly that it is a waste of time sending women to this chamber magistrate for AVOs. It is a disgraceful situation! I call on the Attorney General to take urgent action to review Mr Couch's position and to look at the complaints with a view to resolving them rather than systematically denying them. Whether this would involve proper training for Mr Couch, a period of close supervision or more drastic action is not for me to decide. The situation must be resolved, and resolved straight away.

Motion agreed to.

House adjourned at 12.06 a.m., Wednesday.
