

LEGISLATIVE COUNCIL

Wednesday, 24 May 1995

The President (The Hon. Max Frederick Willis) took the chair at 11.00 a.m.

The President offered the Prayer.

FILMING OF THE LEGISLATIVE COUNCIL

The PRESIDENT: Order! I announce the presence, shortly to occur, of a film crew for the purposes of filming file footage of the new Parliament.

OATH OR AFFIRMATION OF ALLEGIANCE

The President reported the receipt of a Commission authorising him, as President of the Legislative Council, to administer from time to time as occasion may require to any member of the Legislative Council the oath or affirmation of allegiance to Her Majesty the Queen.

The Clerk of the Parliaments read the Commission.

The President reported the receipt of a Commission authorising the Chairman of Committees, in the absence of the President, to administer from time to time as occasion may require to any member of the Legislative Council the oath or affirmation of allegiance to Her Majesty the Queen.

The Clerk of the Parliaments read the Commission.

ASSENT TO BILLS

Royal assent to the following bills of the previous session reported:

Constitution (Fixed Term Parliaments) Amendment Bill
Constitution (Entrenchment) Amendment Bill

SENATE VACANCY

Resignation of Senator Stephen Loosley

The President reported the receipt of a message from His Excellency the Governor transmitting to the Legislative Council a copy of a dispatch dated 21 May 1995, received from the President of the Senate, notifying that a vacancy had happened in the representation of the State of New South Wales in the Senate of the Commonwealth of Australia through the resignation of Senator Stephen Loosely on 21 May 1995.

Motion by the Hon. M. R. Egan agreed to:

That the message be taken into consideration on the receipt of a message from the Legislative Assembly dealing with the same subject.

REGULATION REVIEW COMMITTEE

The President reported the receipt of the following message from the Legislative Assembly:

Mr President

The Legislative Assembly desires to acquaint the Legislative Council that it has this day agreed to the following resolution -

That in accordance with section 5(1)(b) of the Regulation Review Act 1987, the following members of the Legislative Assembly be and are hereby appointed to serve on the Regulation Review Committee -

Diane Beamer
Adrian John Cruickshank
Jill Griffiths Hall
Robert Joseph Wilson Harrison
Elizabeth Anne Kernohan
Barry William Rixon
Douglas James Shedden

and requests that the Legislative Council inform the Legislative Assembly of the names of the members of the Legislative Council appointed to serve on such committee.

Legislative Assembly
23 May 1995

J. H. Murray
Speaker

SESSIONAL ORDERS

Prayers

Motions, by leave, by the Hon. M. R Egan agreed to:

That, during the present Session and unless otherwise ordered, Standing Order 10A be amended to read:

10A. Upon the President taking the Chair each day, if there be a Quorum present as provided by the 10th Standing Order, he shall offer the following Prayers:

"Almighty God, we humbly Beseech Thee to vouchsafe Thy blessing upon this Parliament. Direct and prosper our deliberations to the advancement of Thy glory, and the true welfare of the people of our State and Australia.

Our Father, who art in Heaven: Hallowed be Thy name. Thy Kingdom come. Thy will be done in earth, as it is in Heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation; but deliver us from evil: For Thine is the kingdom, and the power, and the glory, for ever and ever, Amen."

Sitting Days

That, during the present Session and unless otherwise ordered, this House meet for the despatch of

business each week as follows:

Monday	11.00 a.m.
Tuesday	2.30 p.m.
Wednesday	11.00 a.m.
Thursday	11.00 a.m.
Friday	11.00 a.m.

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Questions

1. That, during the present Session and unless otherwise ordered, Questions are to commence at 4.00 p.m. on Monday, Tuesday and Wednesday and at 12 noon on Thursday and Friday.

2. If, at the time for interruption:

- (a) a division is in progress, the division is to be completed and the result announced;
- (b) the House is in Committee of the Whole, the Chairman is to leave the Chair and report progress,

and any business then under discussion, if not disposed of, is to be set down on the Notice Paper for a later hour of the sitting.

Petitions

That, during the present Session, a copy of every Petition received by the House is to be referred by the Clerk to the Minister responsible for the administration of the matter the subject of the Petition.

Cognate Bills

That, during the present Session:

1. Whenever a Minister intimates to the House that Bills specified by the Minister are cognate Bills:

- (a) the Bills may be introduced on one Motion for leave and be presented and read a first time together;
- (b) one Motion may be moved and one Question put in regard to each of the several stages for the passage of the Bills through the Council, but the Bills must be considered separately in Committee of the Whole.

2. When Bills sent from the Assembly are reported by the President as cognate Bills, the first reading and subsequent stages may be proceeded with in a similar manner.

Right of Reply to Ministerial Statements

That, during the present Session and unless otherwise ordered:

- (a) the Leader of the Opposition and the Leader of any other party or group, where leadership of that party or group has been announced to the House; or
- (b) a Member nominated by any Leader,

may speak to a ministerial statement, not exceeding the time taken by the Minister in making the statement.

Divisions - Recording of Pairs

That, during the present Session and unless otherwise ordered, Members paired on any division must be recorded by the tellers. The names of all Members paired must be recorded on the tellers' lists and be printed in the *Minutes of the Proceedings* and *Hansard*.

Ministerial Reply to Adjournment Matters

That, during the present Session and unless otherwise ordered, a Minister may, before the House proceeds to the business of the day, make a statement in relation to any matter raised on the Adjournment at a previous sitting.

Leadership of Parties and Groups

That, as soon as practicable after each periodic Council election and whenever changes occur the leaders of parties or groups with two or more Members in the House may announce the leadership of the parties or groups represented in the House.

Bill Passed - Message to the Assembly

That, during the present Session and unless otherwise ordered, Standing Order 191 be amended to read:

191. After the third reading the Bill is to be deemed to have passed the House and the Clerk is to certify its passage. The Bill is to be sent, with a Message signed by the President, to the Assembly for concurrence.

Introduction of Public Bills

That, during the present Session and notwithstanding anything contained in the Standing Orders:

1. When any Bill, except a Bill sent from the Assembly, has been read a first time and ordered to be printed the second reading may be moved forthwith or made an Order of the Day for a later hour or for a future day. Immediately following the second reading speech by the mover, debate is to be adjourned until a future day which must be at least five calendar days ahead.

2. However, if a Minister declares a Bill to be an urgent Bill and copies have been circulated to Members, the Question "That the Bill be considered an urgent Bill" must be put forthwith, without amendment. If that Question is agreed to, the second reading debate and subsequent stages may proceed forthwith or at any time during any sitting of the House.

Routine of Business

That, during the present Session and unless otherwise ordered, the House is to proceed with its business each day in the following routine:

1. Formal Business under Standing Order 57.
2. Presentation of Petitions.
3. Notices of Motion.
4. Any proposal under Standing Order 13.
5. Ministerial Statements.
6. Ministerial replies to matters raised on the Adjournment.
7. Motions and Orders of the Day, or vice versa, as set down on the Notice Paper.

Proposing of Questions on Amendments

That, during the present Session, and notwithstanding anything to the contrary in the Standing Orders when any amendment is proposed in the House or Committee of the Whole, the Chair may put the question "That the amendment be agreed to".

Committals

That during the present Session and unless otherwise ordered, Standing Order 171 be amended to read:

171. After the second reading of a Bill, unless the Bill is referred to a Select or Standing Committee:

- (a) the President may inquire of the House if leave is granted to proceed to the third reading of the Bill forthwith; or
- (b) a motion may be made without amendment or debate "That the President do now leave the Chair, and the House resolve itself into a Committee of the Whole to consider the Bill in detail" or a future day may be appointed on motion for consideration of the Bill in Committee of the Whole.

Messages from Assembly Transmitting Bills

That, notwithstanding anything contained in the Standing Orders, during the present Session and unless otherwise ordered:

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Whenever the President has several Messages from the Legislative Assembly to report transmitting Bills for concurrence, the President may inquire if leave is granted for procedural motions for the first reading, printing, suspension of Standing Orders, where applicable, and fixing of the day for the second reading, to be dealt with on one motion without formalities.

Precedence of Business

That during the present Session and unless otherwise ordered:

1. Government Business is to take precedence of General Business on Monday, Tuesday, Wednesday, Friday and after 4.15 p.m. on Thursday each week;
2. General Business is to take precedence until 4.15 p.m. on Thursday each week.

TEMPORARY CHAIRMEN OF COMMITTEES

Suspension of certain standing orders, as a matter of necessity, agreed to.

The President informed the House that he would make an announcement on the nomination of Temporary Chairmen of Committees at a later hour.

PETITIONS

Marijuana Prohibition

Petitions expressing concern about legal changes that could increase or encourage the distribution or availability of soft drugs such as marijuana, and praying that the House take no measures that could extend the social problem of drug use, and oblige those who are promoting marijuana or similar drugs to prove without doubt that such drugs are harmless before any legislation or decriminalisation of their use is introduced, received from the **Hon. Franca Arena**, the **Hon. R. T. M. Bull**, the **Hon. Patricia Forsythe**, the **Hon. D. J. Gay**, the **Hon. Dr Marlene Goldsmith**, the **Hon. Dorothy Isaksen**, the **Hon. J. H. Jobling**, the **Hon. Elisabeth Kirkby**, and **Rev. the Hon. F. J. Nile**.

Moratorium on Logging of Old-Growth and Wilderness Areas

Petition praying that the House place an immediate and permanent moratorium on the logging of all old-growth and wilderness forest in New South Wales, and that it legislate to change existing forest management practice, received from the **Hon. R. S. L. Jones**.

Anti-Discrimination (Homosexual Vilification) Legislation

Petition praying that because the homosexual vilification amendments to the Anti-Discrimination Act censor criticism of homosexuals, they be repealed, received from the **Hon. Elaine Nile**.

Cat Desexing

Petition praying that because thousands of domestic cats are left to starve, suffer injury and disease through lack of attention, or are unnecessarily destroyed because of unrestricted breeding practices, it should be compulsory to desex domestic cats other than those specified by registered breeders, received from the **Hon. R. S. L. Jones**.

[Notices of Motions]

The Hon. J. H. Jobling: On a point of order: Mr President, in the previous Parliament you ruled that notices were to be given by rotation and only one at a time. The Hon. Franca Arena is attempting to introduce two consecutive notices of motions.

Reverend the Hon. F. J. Nile: On the point of order: Call to Australia supports the point of order. The situation is as explained by the Hon. J. H. Jobling. I gave notice of only one motion though I have others.

The Hon. Elisabeth Kirkby: On the point of order: on behalf of the Australian Democrats I also support the point of order. You ruled previously as described and I believe it is proper that the practice should continue.

The Hon. Franca Arena: On the point of order: Mr President, I was not aware of your previous ruling. If I did the wrong thing, I was acting completely in good faith.

The PRESIDENT: Order! This is not a matter appropriate to be raised by way of a point of order. In the previous Parliament, for the efficient and fair operation of the House, the practice was established of members not giving notice of more than one substantive motion at a time. The practice is fair for all members. I will accept only one notice of motion at a time from the Hon. Franca Arena.

MIGRANT POPULATION DISTRIBUTION

Adjournment (S.O. 13)

The PRESIDENT: I have received from the Hon. J. M. Samios a notice under Standing Order 13 of his desire to move the adjournment of the House to discuss a definite matter of urgent public importance, namely:

The actions of the Premier, and Minister for Ethnic Affairs:

- (1) in blaming the migrant community for Sydney's urban sprawl;
- (2) in calling for a cut in migration to control population and development problems in Sydney; and
- (3) in proposing that migrants be required to live in other cities.

Question - That the matter is urgent - put.

The House divided.

Ayes, 23

Mr Bull	Mrs Nile
Mrs Chadwick	Rev. Nile
Mr Cohen	Dr Pezzutti
Mr Corbett	Mr Pickering
Mrs Forsythe	Mr Samios
Miss Gardiner	Mrs Sham-Ho
Mr Gay	Mr Rowland Smith
Dr Goldsmith	Mr Tingle
Mr Hannaford	Mr Webster
Mr Jobling	<i>Tellers,</i>
Mr Jones	Mr Mutch
Miss Kirkby	Mr Ryan

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Noes, 16

Dr Burgmann	Mr O'Grady
Ms Burnswoods	Ms Saffin
Mr Dyer	Mr Shaw
Mr Egan	Ms Staunton
Mrs Isaksen	Mr Vaughan
Mr Johnson	
Mr Kaldis	<i>Tellers,</i>
Mr Macdonald	Mrs Arena
Mr Manson	Mrs Symonds

Pair

Mr Moppett	Mr Obeid
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Question so resolved in the affirmative.

Urgency agreed to.

The Hon. J. M. SAMIOS [11.55]: I move:

That this House do now adjourn.

I support this motion firstly because the actions of the Premier of New South Wales and Minister for Ethnic Affairs, the Hon. Bob Carr, have the capacity to socially divide this nation and threaten our social cohesion. Secondly, his actions have caused offence and anger among members of the ethnic communities and peak ethnic organisations. Thirdly, the Premier's actions have discounted the contribution that migrants have made to the social and cultural development of this nation. Fourthly, they indicate the new Government's inability to provide proper planning and development strategies and controls to manage the urban sprawl of the Sydney basin. Fifthly, they have failed to acknowledge the enormous contribution that the four million migrants who came to Australia after the war have made to this country.

In 1975 the Sydney Town Hall was packed on a very historic occasion when Australians of ethnic background gathered in the presence of the then Prime Minister, Gough Whitlam, and the Leader of the Opposition, Malcolm Fraser, to witness the foundation of the Ethnic Communities Council of New South Wales to promote social cohesion and multiculturalism in this State. Honourable members all know how that council - which comprised in its membership its first president, Mr Bill Jegorow, the Hon. Franca Arena and the Hon. J. Kaldis - has played an important role in its support for multiculturalism. I was given the honour to serve that council for three years as its second president, and my parliamentary colleague the Hon. Helen Sham-Ho is a member of that council.

In June members of the Ethnic Communities Council will celebrate the twentieth anniversary of the formation of the council in an atmosphere of concern and bewilderment at the aberrations and utterances of the Premier and Minister for Ethnic Affairs about the migrant intake and its contribution to the character of Sydney. I point out to the House that one of the cornerstones of our democracy is social cohesion based on a mutual respect for the contribution that all Australians of all cultural backgrounds are making to our multicultural society. Honourable members are aware that a front-page article in the *Sun Herald* of 21 May, which was subtitled "Carr wants migrant cuts", read:

Sydney is losing its character as a major city and its population growth must stop, Premier Bob Carr warned yesterday.

Further on the article read:

He [Bob Carr] plans to achieve this limit by persuading the Federal Government to give incentives to migrants to live in other major cities and by encouraging decentralisation.

By blaming the migrant community for Sydney's urban sprawl, the Premier has belittled its contribution and sought to divide the nation. While most Australians appreciate the importance of the migrant contribution to the social and cultural development of this great city, the Premier - who is, incidentally, the Minister for Ethnic Affairs - still believes that the contribution of the migrant community has caused the city to lose its character as a major city - not only to lose its character, but to lose its character as a major city. That is an important difference. Cities evolve. For a major city to change character or even to lose character is one thing, but to claim that Sydney is losing its character as a major city is to belittle the contribution of the migrant community. What an incredible statement: that Sydney is losing its character as a major city.

A little over a year ago the International Olympic Committee decided on Sydney as the venue for the Year 2000 Olympic Games because of its multicultural and cosmopolitan nature, a factor that has helped to establish Sydney as a major city. Does the Premier think that the decision by the International Olympic Committee will prejudice Sydney's status as a major city? We are all proud to live in an international city on the Pacific seaboard. Sydney is the jewel in the antipodean crown; it is one of the great cities of the world, with a cosmopolitan mix that is the envy of the world. I remind honourable members that today more than 200 ethnic backgrounds are represented in Australia's population. Most of those backgrounds are represented among the residents of this city. It is said that more than 1.3 million people of the nearly 4 million in Sydney speak another language as well as English. The social cohesion of Sydney's multicultural society is the envy of the world.

On Australia Day last year I attended the Vietnamese Buddhist temple at Wetherill Park where His Royal Highness Prince Charles met with the Most Venerable Thich Phuoc Hue, Australia's leading Buddhist leader, and other religious leaders. I later attended a major public gathering at Parramatta. On that occasion, during discussions with me and the Hon. Michael Photios, Prince Charles pointed to the success of Sydney's multicultural society as a good example for the rest of the world.

As honourable members are aware, overseas experience has shown that social cohesion cannot be taken for granted. That is why, some 47 years after

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the mass immigration program was introduced in 1949, we are still working hard to maintain the necessary social harmony for a successful multicultural society. Although many multicultural and ethnic affairs programs were introduced as a result of bipartisan cooperation between the Australian Labor Party and minority political parties, it was the Greiner Government of this State that underpinned the social cohesion of the State by the introduction of racial vilification legislation in 1989.

The Hon. Franca Arena: Which we supported.

The Hon. J. M. SAMIOS: Yes, indeed. However, the fact remains that the legislation was introduced by the Greiner Government, and it contained real sanctions. I remind honourable members that in 1993 I had the privilege of reviewing that legislation. On behalf of the Fahey Government, the then Attorney General, the Hon. J. P. Hannaford, introduced amendments in this House to further strengthen the provisions of the legislation. Programs involved peak organisations such as the Ethnic Communities Council, which is celebrating its twentieth anniversary, and has, incidentally, nearly 1,000 members. The initiatives resulted in part from the objectives of State and Federal governments over 40 years since mass immigration programs were introduced. I pay credit to the pathfinding endeavours of Arthur Calwell, who led the program for mass immigration.

However, after 47 years of endeavours by all Australians, all State and Federal governments and their bureaucracies, and peak organisations, an attempt is now being made to discount the contribution of the migrant community, which is now accused of being the main cause for Sydney's urban sprawl. Possibly the most concerning part of the Premier's comments related to the desire to keep migrants out of Sydney and to persuade them to live elsewhere in Australia. Any proposal to require migrants to live in other cities to resolve Sydney's population pressures flies in the face of freedom of movement, one of the cherished liberties of this great democracy. I point out to honourable members that in today's *Australian* His Grace Archbishop Hollingworth, who chairs the National Anglican Social Responsibility Commission, is quoted in an article headed "Divisive immigration debate flares up over Carr claim." The article read:

The Archbishop of Brisbane, Archbishop Peter Hollingworth, last night called for a national immigration debate but attacked NSW Premier Carr's comments on immigration as "a pity" and "pre-emptive".

Mr Carr's comments that immigration levels should be lowered have provoked a national furore, with the Victorian Premier, Mr Kennett, yesterday likening his NSW counterpart to gaffe-ridden sports chief Mr Arthur Tunstall.

His Grace the Archbishop made the following significant comment:

... governments had so far failed to develop an adequate regional strategy.

But here is the punch line:

... and sending migrants to low-growth country areas was not the answer.

How can one consider a program for rural areas when it is known that thousands of migrants are coming to the cities, including Sydney, because of the failure of economic policies in rural areas to provide employment for all

Australians? And in the midst of this recession in rural areas consideration is being given to sending migrants there. Australians of eight generations have given up their properties, have left the land and are working as taxi drivers in this city in an effort to survive. There is no employment in country areas, yet Walter Mitty, the Premier of New South Wales, talks about migrants seeking employment in the country.

Reverend the Hon. F. J. Nile: Bourke and Broken Hill.

The Hon. J. M. SAMIOS: Yes. I take up the reference by Reverend the Hon. F. J. Nile to Bourke and Broken Hill.

The Hon. R. S. L. Jones: What is wrong with Bourke and Broken Hill?

The Hon. J. M. SAMIOS: There are no jobs. It is patently absurd to ask migrants to enter Australia with their passports stamped "not valid for Sydney". Is that the message of this great democracy? A population of 17 million occupy this fifth continent, which is blessed with enormous mineral and agricultural resources. By any count 17 million is a modest number, yet the suggestion is for restrictions to be placed on migrants once they arrive here. Is that the sort of democracy we want? Do we want to segregate Australians, or are we saying that because we can give migrants security of employment in provincial cities or in rural areas they should surrender their rights to come to Sydney in consideration for such employment?

It is one thing to offer work and other inducements for migrants to live in areas other than Sydney, and another to insist that they not live in Sydney, as if they had the mark of Cain. Questions relating to population pressures, planning, and strategies embracing migrant and decentralisation issues are matters for regular dialogue between the Commonwealth and State governments on a formal basis, and there is scope for us to enter into that dialogue. There should be not only unilateral dialogue between this State and the Commonwealth, but dialogue involving all States. Perhaps that initiative should be considered for the next century. The issues of priorities of population distribution, urbanisation of the continent, and decentralisation policies that provide employment opportunities for all Australians, not just one section, should be examined.

In the United States it is well known that on a national basis the Federal Government, in examining population distribution in the mid-west, looked at a system of placing defence industries across the mid-west of the United States to provide employment. Later it was found that employment, whilst providing the bread for the family, did not necessarily in itself provide the necessary quality of life. Later the United States Federal Government provided funding for

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tertiary structures to be placed alongside the defence industry. It was deemed to be a national issue of priority to the people of the United States and one which had to be resolved by concerted action. Australia is a nation of only 17 million people and is blessed with a plethora of natural and mineral resources. I am delighted that my parliamentary colleague the Hon. Franca Arena gave notice of a motion to the effect that this House believes that Australia cannot close its doors to immigration and rejects the assertion that 17 million people are the optimum population that this continent can sustain. I give credit to the Hon. Franca Arena for having the intestinal fortitude to state those facts in this House.

Reasons for Sydney's urban sprawl and population growth are complex. They include the failure of economic and decentralisation policies to provide employment in provincial cities and rural areas, and the subsequent migration to capital cities such as Sydney. The attraction of Sydney as an international, cosmopolitan city, a magnet to people worldwide, migrants and other Australians - dare I say it - living in places such as Melbourne who wish to live in Sydney, may well have caused a burgeoning population. However, that is no reason to discount by implication the contribution of Australia's 4 million migrants. The success of our migration policy is reflected in the number of new Australians who have achieved success in the professions, be it in areas such as commerce or in the decision making process at local, State or Federal Government level.

One further important point must be kept in mind: we are all aware of the plethora of planning problems a coalition Government inherited from a former government when it came to office in 1948. However, it was the

coalition Government which introduced major initiatives to provide answers for the urban sprawl by promoting a consistent policy of medium density housing; controls on developments, such as dual reticulation sewerage in Rouse Hill; and greater levels of stormwater control and air quality monitoring. They were initiatives from our side of politics, not from the Labor Party. The Hon. P. F. O'Grady should tell us about his initiatives.

My parliamentary colleague the Hon. J. F. Ryan, who lives in Narellan near Campbelltown, has done a great deal for ethnic communities, particularly those in Sydney's west. He will detail those initiatives in later debate. I invite the Hon. P. F. O'Grady to listen to the words of wisdom which will flow on that important occasion. In today's *Sydney Morning Herald* the Associate Professor of City Policy at Murdoch University in Western Australia, Professor Peter Newman, indicated that the continuing and growing demand for housing in Sydney's core or inner areas is a test of the city's good health. Sydney loses as many people as it gains from immigration, and most of those lost are moving to Queensland. The reality is that although we all appreciate the need for solutions to major planning and population problems, the Premier's attack, by implication in his words to the press, has caused a social division.

I assure honourable members that this attack is causing great anger in the ethnic community. Last night I had the privilege to host for the Leader of the Opposition, the Hon. Peter Collins, a function with ethnic community leaders. My parliamentary colleagues will give testimony to the resentment felt in the ethnic communities for the denigration by the Premier of the contributions made by those communities. Peak organisations, such as the Australian Chinese Community Association headed by Laurence Lau, have been critical of the Premier's comments. Angela Chan, President of the Ethnic Communities Council of New South Wales, expressed her concern and distress in today's press. Great concern and bewilderment is being experienced across the broad stream of the ethnic community at the Premier's Lilliputian approach.

As the Premier is also Minister for Ethnic Affairs, he must play a historic role in the social cohesion of this State. He is in a position to give leadership by virtue of his position and his experience as a former planning Minister. How sad is it to witness the spectacle of the Premier, Minister for the Arts, and Minister for Ethnic Affairs pontificating in this way regarding the migrant intake. He has presumed - not after debate or inquiry into the facts, or after a common dialogue has been held with the Federal Government or with other States - to pontificate that a reduction must occur in the migrant intake. We will talk to the Federal people. I have called for a departmental inquiry, and within four months - as indicated in today's newspaper - we will see some reports on the present position. However, the Premier has set the parameters. He wants a reduction in the migrant intake, and he has a game plan for that reduction. It is not just the migrant community, the ethnic community, the peak organisations, the church and welfare groups or other cultural and sporting groups that are - [Time expired.]

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [12.25]: My colleague the Deputy Leader of the Opposition pointed out that the performance of the Deputy Leader of the Liberal Party today reminded him of James Hacker's imitation of Sir Winston Churchill - it was about as convincing as that performance. The Hon. J. M. Samios is simply trying to make political capital - which he is entitled to do - out of the statement made by the Premier concerning the size of the migrant intake, particularly the share of that intake which comes to Sydney. This is the ultimate political hypocrisy considering that the Liberal Party is led by someone who does not believe at all in multiculturalism; I refer to John Howard. It is absolute hypocrisy!

[Interruption]

In his reincarnation as Federal Leader of the Opposition he has made comments somewhat different from those made when he led the party first time around. I find it hypocritical that the Hon.

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J. M. Samios made no reference to his Federal leader's views on multiculturalism, yet he denigrated the Premier, who has a longstanding commitment to multiculturalism, over his comments about the size of the migrant intake, particularly the share of the intake that comes to Sydney. The Hon. J. M. Samios might have mentioned that the Premier's comments of last weekend were exactly the same as comments he has made on numerous

occasions. He made similar comments well before he became Premier, so they should not come as a surprise. The Premier's concerns for the urban amenity are known not only by the entire New South Wales community but also by the ethnic communities. The Hon. J. M. Samios may have spoken to some members of the ethnic communities last night, but so did I. The feedback I received was that they are supportive of the Premier's comments because the quality of life in Sydney for both existing and new residents, including residents who are soon to arrive, will very much depend on the size of Sydney and the capacity of its infrastructure and the natural environment to cope with the population increases.

The Premier has taken on the role of Minister for Ethnic Affairs, unlike his predecessor, who shuffled it off to the most junior Minister in the Government, Mr Michael Photios, who thought that the way to get the support of the ethnic communities was to bribe them with all sorts of handouts. On many occasions they were handouts that the ethnic communities had not even asked for. In the process he did nothing but insult the ethnic communities, with the result that at the election on 25 March the Australian Labor Party, as usual, won the overwhelming majority of migrant votes. Indeed, it did so with the ethnic communities knowing full well what the Premier's views were on the threats posed to the urban amenity of Sydney and the size of the migrant intake and the share which Sydney should take of it. The Premier has pointed out that continuing growth of Sydney puts great strain on available services, including housing, transport, schools and the environment.

The Hon. J. F. Ryan: What causes that, though?

The Hon. M. R. EGAN: There are many factors. One is that Sydney takes 40 per cent of the migrant intake every year, despite the fact that Sydney accounts for only 21 per cent of the nation's population. Sydney is the first port of call for most migrants - and I hope we will always be a very welcome port of call - but I would hope that all the other capital cities and the regional centres of Australia will have the opportunity to benefit from the immigration program as Sydney has. There is no doubt that the postwar immigration scheme, which of course a Labor Government commenced, has been of great benefit to Sydney. One of the great economic advantages which we now have is the ability to attract businesses which were previously scattered through the Asia-Pacific rim which want to aggregate into one operation. We are able to attract them here because not only are we a multicultural city - the Liberal Party under John Howard's leadership was very reluctant to support this - but a very high proportion of the population is bilingual or multilingual. So we have a very significant economic opportunity.

The Hon. Dr B. P. V. Pezzutti: So why kill the goose that lays the golden egg?

The Hon. M. R. EGAN: We do not want to destroy Sydney with a population growth that it cannot cope with. There are a number of factors; the immigration intake is simply one of them. According to projections, Sydney will reach a population of 4.5 million by the year 2021. As the Premier pointed out, Sydney's population growth is due to many causes, including the movement of people from smaller towns in New South Wales to Sydney, the ageing of the population, family structures and, of course, immigration. It is one factor but, as all the other factors will be addressed, so should that one be. There should not be some sort of tyranny about the raising of the subject. We should be able to debate the size of the migrant intake without the Hon. J. M. Samios and his Opposition colleagues, who only a few years ago were wholehearted supporters of John Howard's opposition to multiculturalism, going into a hysterical and hypocritical fury.

We need to look at all the big issues and carefully plan to provide all the necessary services as well as a good environment for all people living in Sydney. We should examine how we can improve the infrastructure and management of our city. We have asked the various government departments to examine these matters and to report back to the Government within four months. We were concerned about the quality of life for immigrants who live here as well as those who would like to make Sydney their home in the future. All immigrants coming to Sydney should have proper access to services, quality housing and efficient transport, and their children should have a good education. So we must think carefully about, amongst other things, the number of immigrants intending to settle in Sydney. We are determined to examine all those issues and to make Sydney an even better place to live for all its residents, including its recent migrants and those who will be shortly joining us.

The Hon. HELEN SHAM-HO [12.36]: I congratulate the Hon. J. M. Samios on bringing this very urgent and important matter before the House so that it may be debated, and I am pleased to have been given the opportunity to contribute to the debate. I deplore the statement made by the Labor Premier of New South Wales, Mr Bob Carr, on Sunday, 21 May 1995. A front page newspaper article stated that he said we have "to set a limit on Sydney's population". To me, this is racial vilification and the promotion of hatred on the basis of ethnic origin. No doubt, migrants are angry and annoyed because Mr Carr has vilified ethnic and migrant communities of this State by arguing "on economic as well as environmental grounds" that they are "all the burden of Australia's population growth".

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The Treasurer just said that migrants are a burden on the State. This is deplorable. It is an outrage that migrants should be blamed for all social ills, least of all by a Premier who is also Minister for Ethnic Affairs. Sydney has been the leading city in Australia, and because of the coalition's good government in the past seven years Sydney has become Australia's leading financial centre. Of course, people come to Sydney to enjoy its quality of life. Since he became Minister for Ethnic Affairs Mr Carr has done little to promote multiculturalism and ethnic communities. Now he is promoting racial hatred. I call on Mr Carr to resign. He should not have singled out migrants as the root of society's ills and evils, be they Sydney's urban sprawl or other matters such as unemployment or environmental degradation.

The Hon. J. F. Ryan: It is not true.

The Hon. HELEN SHAM-HO: The Hon. J. F. Ryan is correct. Mr Carr's plan of forcing migrants to settle outside Sydney, to me, is fundamentally repugnant to the principles of democracy and liberty in this country. To my mind, it carries with it the essence of the white Australia policy. Mr Carr's suggestion of setting a limit on Sydney's population is abhorrent to an individual's rights to freedom of choice and freedom of movement. If the suggestion of setting limits on Sydney's population were carried out, it would result in insular ethnic enclaves and a typical ghetto mentality. The circumstances could be compared to concentration camps and Third World dictatorships.

The Hon. R. S. L. Jones: That is a disgraceful comment for the honourable member to make.

The Hon. HELEN SHAM-HO: The comment by the Premier is absolutely disgraceful. It is unrealistic to ask migrants to settle in country areas or other areas when they will want to be gathering together. Mr Carr ignores the fact that family reunion was one of the categories of the immigration program and is the motive for many people migrating to Australia. They want to reunite with their families. Family members migrating to Australia want the mutual support and close proximity of their relatives. Mr Carr continues to ignore the principles of access and equity. This is about ensuring a fair go for all Australians. Instead, he promotes discrimination. Why must migrants live outside the good old city of Sydney? Mr Carr should think about that.

Mr Carr's Government should solve the problems of urban sprawl through better planning and not resort to scapegoat tactics. As the Hon. J. M. Samios has said, Australia was developed by migrants. Migrants laid its roads, built its dams and farmed its land. Now Mr Carr says that they are unwanted. That truly is a shame. To control the urban sprawl by cutting the intake of migrants into the State would be a very short-sighted response to an important State issue. Mr Carr has focused on immigration to this State based on the fact that while Sydney has 22 per cent of the Australian population it attracts 35 to 40 per cent of all migrants. To deal with this fact the Carr Government needs to focus its resources on maintaining and developing services to adequately meet this State's population growth.

I agree with the Treasurer that there are a multitude of complex causes and management issues involved. Greater Sydney is geographically the same size as greater London. Sydney has a population of 3.5 million; London has 10 million. Greater Sydney has a larger geographical area than greater Paris, which has 9.5 million people. Beijing has more than 20 million people. I am not advocating that Sydney should evolve into a

megacity such as any of those I have mentioned.

The Hon. R. S. L. Jones: You would not live there.

The Hon. HELEN SHAM-HO: No, I would not like to live in any of those big cities. However, Sydney can deal with this. As the Hon. J. M. Samios said, there are 3.5 million people in Sydney and 17 million in Australia. That is not a big population. Sydney will have to cope with the problems. But we will increase in population: it is inevitable. Therefore, the Government has to focus on planning, not on curbing immigration. Recently the Bureau of Statistics released the 1991 census. The census showed that New South Wales and Victoria have continued their long-term decline in population. There are many reasons for this, which have been pointed out already, such as internal migration of people, mostly to Queensland and Western Australia. Between 1986 and 1991 the flow continued to favour Queensland, which had a net rise of 125,000 people compared with a net loss to New South Wales of 93,000 people. It cannot be said that the population of Sydney is increasing; it is reducing - and for many reasons.

The previous Liberal Government, of which I was happy and proud to be a member, implemented a range of measures to deal with the urban sprawl in Sydney. Dual occupancy was a major part of the urban consolidation strategy. This was a way of limiting urban expansion but at the same time increasing the density of population per hectare. This strategy made better use of the land available to the community. If Mr Carr is so concerned about the urban spread of Sydney, why did he remove dual occupancy subdivision from State planning control without being in a position to substitute it with an alternative urban consolidation strategy? It is hard to reconcile this action with Mr Carr's current concerns.

Last week I became aware, from first-hand knowledge, that the Carr Government's abolition of the dual occupancy policy has caused much concern in the community. In one particular case Ms Mary Ho approached me seeking help in dealing with a dual occupancy application that is before Parramatta City Council. Apparently she was one day late in lodging her application. The action of this Government has seriously threatened the future plans of Ms Ho and many other members of the community.

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Many factors are involved in decentralisation. Mr Carr, instead of trying to restrict immigration into Sydney, should be planning to make regional New South Wales more attractive to potential immigrants. Many immigrants are willing to live in any area of New South Wales where they can work and be happy and where their dedication will be appreciated. They should be encouraged to prosper in regional centres. I agree with Professional Patrick Try, head of the urban research unit at the Australian National University. He stated:

Sydney should not be seen as just a central business district but as a federation of centres which are interconnected . . . the natural centres like Penrith, Blacktown, Parramatta, Liverpool, Campbelltown, those on the North Shore [should have their growth] reinforced by regulation and planning and investment in public infrastructure, encouraging their local identity.

If regional New South Wales were further developed, that would succeed in attracting migrants more easily than would any stupid action or suggestion to stop the flow of migrants. We have to give migrants incentives and make conditions more attractive if we wish them to settle elsewhere in this State. Sydney's annual rate of population growth over the past 15 years has been approximately 1.1 per cent, compared with the national average of 1.4 per cent. The reason is that Sydney has been experiencing strong internal migration loss to other parts of Australia for the past 20 years or so. This net migration loss occurs to the north and south coasts of New South Wales, to Brisbane and to Western Australia. Queensland is not looking to cut immigration, even though its immigration numbers are rising rapidly.

The real question is: why is Mr Carr raising this issue now? It is a diversionary tactic to attract the anti-immigration party vote. This morning each of the Sydney newspapers carried a front-page story on Mr Carr's attack on migrants coming to this State. In making his attack he has diverted media focus from the important issues that are fundamental to this State, such as stamp duty. Queensland is making good mileage on

that issue. Mr Carr seeks to divert attention from debates on the M2 and the issue of aircraft noise, which still need to be addressed. Those issues, which affect the everyday lives of Sydneysiders, are the issues that Mr Carr should be addressing. These are State issues on which Mr Carr should take immediate action, not the Federal issue of immigration. No doubt, honourable members should acknowledge the migrant contribution to multicultural Australia. How can one discriminate against migrants? *[Time expired.]*

[The Deputy-President (The Hon. D. J. Gay) left the chair at 12.51 p.m. The House resumed at 2.30 p.m.]

The Hon. P. F. O'GRADY [2.30]: We should not confuse this issue with racism. We are not dealing with John Howard; we are dealing with Bob Carr. John Howard may well have put his racism on a slow boat to China, but Bob Carr is raising the issue of the future size of Sydney.

The Hon. D. J. Gay: It is racism.

The Hon. P. F. O'GRADY: No - absolutely not. Bob Carr is not being racist. He wants to debate issues such as the suitable population for this continent. The Hon. D. J. Gay, as a supposed farmer, should place some value on the important questions which face our land. Australia is an old continent with a young population. It is a fragile continent. The honourable member and his generation have not dealt with that issue. This is a serious attempt to deal with important environmental issues which face our nation. The desperate Opposition is seeking to flag this issue as a debate on racism. We will not let the Opposition do that. This debate is not about racism - it is about dealing with the growth of Sydney and the environmental concerns facing our nation, of which there are many. The Liberal Party and the National Party have always had absolute contempt for the environment of this country.

The Hon. J. P. Hannaford: You have no idea what damage this issue will cause you in the ethnic community.

The Hon. P. F. O'GRADY: It has not done us any damage in the ethnic community. I know that Opposition members have been stirring the pot, seeking to portray this issue as a debate about racism. As I have said, it is not a debate about racism; it is a debate about the quality of life in this city and this country. We need to consider important planning issues. I believe that Australia is the greatest nation in the world and that Sydney is a great city. We are not going to ignore our responsibilities and fritter away opportunities of ensuring that Sydney maintains its greatness. Sydney has benefited greatly from migration. There is no better place in the world for food than in Sydney. We have our non-English speaking brothers and sisters to thank for that. They have made an enormous contribution to the cultural diversity of Sydney. That is something of which we can be proud.

The speakers for the Opposition have been intent on flagging this issue as one of racism. It is not an issue of racism; it is about proper planning and population levels. This debate may be difficult but it is worth while. I commend the Premier for raising the issue. It is about dealing with funding questions. The simple fact is that 40 per cent of the migrant intake comes to this fair State. That costs money; infrastructure costs money. If national governments are to engage in immigration programs, as I believe they should, they are obligated to fund States at an adequate level. We have to deal with a number of strategic and key planning issues. That costs money. The Federal Government must come forward with that money to ensure that the strategic utilities are maintained. Bob Carr has come out with guns blazing on planning issues since his election as Premier of this State. He should be commended for that. The previous Government, and all conservative governments, have never taken due notice -

The Hon. J. F. Ryan: This Labor Government is the most conservative government in this State's history.

The Hon. P. F. O'GRADY: That is absolute rot. In an historic sense, members of the Labor Party have

been the builders and forethinkers of this State. Liberal-National governments have always been about hiding the values and denigrating this city and nation. I look forward to the debate on Australia's population and how we face the challenges of Sydney's growth. They are great challenges. The Opposition spokesman on ethnic affairs should not use this debate to try to drum up a racism issue. This debate is not about racism; it is about proper planning. The Premier is to be congratulated for engaging in an honest debate about where we are going and where we should be going.

The Hon. J. F. RYAN [2.37]: I, like many supporters of the multicultural community in New South Wales, have been outraged at the level of xenophobia unleashed by what I believe to be indiscreet comments by our Premier. There is no doubt that he is saying one thing but meaning another. I mean that with all the sincerity of my heart. I do not believe for a second that Bob Carr has any concern whatsoever for decent planning in our city. He is attempting to extend his post-election honeymoon period. He is seeking to seize on an issue from which it is all too easy to grab political points. He is seeking to aggrandise his political position by exploiting the xenophobia within our community.

The Hon. R. S. L. Jones: That is a lie.

The Hon. J. F. RYAN: We will deal with lies shortly; we will see which side of the House tells the truth. I say to the members of the new Labor Government: it is about time Labor members took their party back. I cannot believe that we have a party in office which purports to adhere to the traditional tenets of the Labor Party when, over the last few months, the leader of the new Government has treated us to some of the most embarrassingly conservative statements. Government members must be embarrassed by some of the comments made by the Premier. They must be embarrassed by his 1950s approach to juvenile justice.

The Hon. Franca Arena: On a point of order: we are discussing the Premier's statement in relation to migrants, not juvenile justice. Mr President, I ask that you direct the Hon. J. F. Ryan to return to the subject under discussion.

The PRESIDENT: Order! There is no point of order.

The Hon. J. F. RYAN: Honourable members opposite must also be embarrassed by the 1950s approach to education adopted by the new Government - back to reading, writing, arithmetic and rote form. Do not worry about new forms of education. Forget it, we are going to go back to the old stuff. Do not worry about computers. It is all old-style Labor government and all old-style Labor education policies. Government members opposite must truly have been embarrassed by the Premier's comments about industrial relations, comments that caused a boilover. They would have been embarrassed by the outrageous comments that the Premier made about the issue of immigration because, up until this time, the Labor Party has had a proud tradition of supporting and defending a multicultural Australia and of supporting and winning the confidence of ethnic communities within this State.

There is little doubt that that will be no more, because, as I could put in no better words myself, the Premier's comments in the last month have made him the Arthur Tunstall of Australian politics. They have, as I said, unleashed xenophobia, and one has only to listen for five minutes to any radio talk-back program to hear the sorts of people that have come out in support of the Premier. They are not the traditional constituency that the Labor Party would cater to; they are the sorts of people who wickedly support racism and xenophobia within our community and endorse candidates for parties such as People Against Immigration. Paltry though his electorate mandate is - only 48 per cent of the vote on a two-party preferred basis - the Premier seeks to build it up by catering to some of the basest levels within our community.

The Premier should have been more careful because the remarks that he is purported by the media to have made are inaccurate. Immigration is not a leading cause of urban sprawl in Sydney's west. I am a resident of western Sydney and one of the things I have noticed in the time since I moved from the inner-city to the outer suburbs of Sydney is the small number of migrants in communities such as Campbelltown, Hawkesbury and Penrith. There are not as many people from non-English speaking backgrounds in those areas as one will find

in Sydney's eastern suburbs or the inner city. In fact, some suburbs on Sydney's northern beaches have larger numbers of residents who have lived in Australia for less than five years than have suburbs in western Sydney.

The people of Sydney have been told that urban sprawl is affecting Sydney's west. True, it is, but it is not as a result of immigration. Mr Carr's comments were not only indiscreet and cruel to migrant communities, but also blamed them for something for which, on careful scrutiny of the facts, they could not possibly have been responsible. The comments were inaccurate because the principal cause of growth in Sydney's west is not immigration. I propose to demonstrate that fact - and I must say that facts have been scarce in the debate to this point, particularly in the contributions of honourable members opposite. They have been forced by a vote of this House to defend their Premier and they have defended him on the basis that he is not racist. I do not suggest for a moment that he is racist, but it would be naive to believe that the Premier is not aware that those who form the vanguard of his support on this issue are, by and large, not the traditional Labor constituency.

I accept that this issue could easily become emotive, and I commend the scholarly and academic articles produced by the Bureau of Immigration

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Research relating to it. I draw the attention of honourable members to a monograph in the Parliamentary Library entitled *Immigration, Urban Infrastructure and the Environment*, by Ruth Fincher. The academic responsible for that publication summarised Bob Carr's views that immigration is the supposed cause of urban sprawl and then commented:

Many of these are not new arguments, having appeared in Australian public policy debates from time to time since the 1920s.

That is how up-to-date the Labor Party is; it is wildly up-to-date with the 1920s. Labor has a 1950s education policy, a 1950s juvenile justice policy and a 1920s urban planning policy. This debate has been generated in the grand tradition of the Labor Party's white Australia policy, which it introduced shortly after Federation. The largest growth areas in Sydney have been exposed by a report of the 1991 census, which shows that the largest population growth in our city is being experienced in four local government areas, all of which are in western Sydney: Camden's population increased by 5.6 per cent; Hawkesbury's population increased by 2.31 per cent; and Penrith's population increased by 2.8 per cent. Those areas are all located in close proximity to the Hawkesbury-Nepean River system. They are in Sydney's west, where there are reportedly problems with air pollution and so on, but they are not places where one is likely to find many migrants.

One need only obtain from the Parliamentary Library the excellent publication put together by Miss Newby on the issue of comparative statistics for various electoral districts in New South Wales. One of the interesting tables she produced ranks each electorate in terms of its proportion of persons born overseas and resident in Australia for less than five years - 3.1 per cent for Camden, 1.7 per cent for Hawkesbury and 2.7 per cent for Penrith. That survey is supported by another scholarly work on a similar subject by two professors from the University of New South Wales, Professor Ian Burnley and Professor Peter Murphy. Today's *Sydney Morning Herald* contains an excellent article by Professor Burnley in which he argues that immigration is not a significant cause of urban sprawl in Sydney's west. The Premier was simply being mischievous in singling out that issue of all issues as putting pressure on Sydney's west.

Honourable members may be surprised to know that only 33 per cent of migrants who have come to this city in the past five years have settled in the outer Sydney western suburbs. The bulk of those, if one cares to examine the statistics in a little more detail, have settled in areas such as the cities of Fairfield and Liverpool and not in high urban growth areas. One of the interesting conclusions of Professor Burnley's study is that the pressure that migrants put on the residential housing market in our city does not relate to building but to rental prices, because in the short term migrants tend to rent existing houses and not to build houses. That makes sense because it is highly unlikely that those who have recently arrived in this country would have the financial circumstances to enable them to approach a bank for a loan to build new accommodation.

The conclusion is borne out by the facts. Professor Burnley concluded that by 1991 there were more than 258,000 people in Sydney who had been born overseas and had settled in Australia since 1986. The total

estimated net migration gain, however, was only 90,000. Of the 40 per cent of migrants who come to our city, after all the various other changes that have occurred in the population in our city, only 90,000 are left. They are hardly a significant reason for the population growth in Sydney's west.

The truth is that the population growth in Sydney's west has more to do with the make-up of the modern family at the latter end of the twentieth century. Family household units tend to be much smaller than previously, and that fact alone has generated a great deal more accommodation. It has more to do with lifestyle matters than it has to do with immigration. In today's *Sydney Morning Herald* the Premier has gone on record for the first time as making reference to any cause other than immigration for the population increase in Sydney's west. I ask honourable members to judge for themselves. Has this been about politics or has it been about a sensible approach to Sydney's growth?

I believe it is possible to demonstrate that the Australian Labor Party has never been serious about promoting the growth of western Sydney. One needs only to examine its policy - and I ask the Treasurer to take note of this - in regard to tollways in Sydney's west. The Australian Labor Party is about to make the most environmentally ludicrous decision that any government is ever likely to make. It intends to remove an economic instrument that is rationing the use of the two existing tollways that currently service western Sydney, the M4 and the M5. It intends to lift the tolls on these motorways, at great expense to its roads budget. The traffic congestion that will result from the lifting of those tolls will be enormous. When the Labor Government in Victoria removed the tolls from the Westgate Bridge, traffic increased by nearly 50 per cent. I ask honourable members to consider what will happen when traffic moves in large numbers onto the M4 and the M5 motorways. They too will become congested, and members of this House who represent Labor constituencies will be harassing the Treasurer to improve road infrastructure.

This is the Labor Party that claims to be concerned about good planning. The lifting of the tolls on those motorways is an outrageously ridiculous approach to urban planning. Later in this debate one of my colleagues will refer to the crazy manner in which the Australian Labor Party has indulged in gross politicking on the issue of urban consolidation. It has played that issue for every vote it is worth, but it has no vision so far as the issue is concerned. Despite the fact that the urban consolidation policy terminated by the incumbent Government was drafted largely by a former Labor government, the Government scrapped the policy because it believed that would bring the Labor Party a large number of votes.

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The Hon. J. H. Jobling: Was the Premier not the Minister for Planning then?

The Hon. J. F. RYAN: The Premier was Minister for Planning and supervised that regime when he was the Minister. That fact is referred to in the editorial in today's *Australian*. The Opposition is not alone in drawing attention to the Government's hypocrisy in relation to urban planning and the fact that the Government has delivered a cruel blow to Sydney's migrant community by accusing it of being responsible for the problem of urban sprawl. Former Labor governments are as much to blame for that problem as anyone else. The Premier should hang his head in shame for the damage he has done for gross political purposes. In closing, I should like to say that I agree wholeheartedly with the comments that I heard the Hon. Franca Arena make on the radio today about the danger of this debate causing enormous damage to migrant communities in our city. The Premier's comments were irresponsible and indiscreet. As I have been able to demonstrate in the time available to me in this debate, the comments were wrong because they were not based on fact. [*Time expired.*]

The Hon. FRANCA ARENA [2.52]: It is not easy for me to take part in this debate, but I have never been a shrinking violet. First, I want to put on record the excellent record of the Australian Labor Party on immigration and ethnic affairs.

The Hon. D. J. Gay: Why were you not made the Minister?

The Hon. FRANCA ARENA: Because they are fools. That is all I can say. There are two giants in

the history of this issue in the Australian Labor Party: Whitlam and Wran. They did marvellous and incredible work for the ethnic communities not only of this State, but of this country. All the important changes in relation to immigration and ethnic affairs have resulted from the efforts of Labor Prime Ministers, Premiers or Ministers: the setting up of the Ethnic Affairs Commission, the founding of the Ethnic Communities Council, the introduction of the multicultural legislation, and Special Broadcasting Service television and radio. The list goes on and on. I do not claim that some of those wonderful initiatives did not continue under Liberal governments.

The Hon. J. H. Jobling: We introduced them.

The Hon. FRANCA ARENA: No. Mr Fraser, who followed Mr Whitlam, had an excellent record, as did Mr Greiner. I am not being so partisan as not to acknowledge that the record on both sides of politics has been excellent. No-one can dispute that migrants are attracted to this State because of its excellent services. The big problem is that some people find it difficult to accept that others disagree with their point of view. Australia is still a democracy, and Mr Carr has the right to put his point of view. I do not believe that the immigration issue is a sacred cow that cannot be discussed. That would be wrong, and honourable members should acknowledge the right of any individual, whether it be the Premier or anyone else in our community, to question immigration. I will always support that right.

I acknowledge also that environmentalists are genuinely concerned. Several times during the debate this morning I heard the Hon. R. S. L. Jones, who has just left the Chamber, speak up because he is very concerned about the environment. We should listen to the environmentalists because we all want quality of life. That is important. I read the editorial in today's *Australian* at six o'clock this morning because I had no doubt that this issue would blow up. In the past few days I have received dozens of phone calls from people who are confused, because Mr Carr is the Minister for Ethnic Affairs and is a great friend of the ethnic community.

The Hon. Patricia Forsythe: Was!

The Hon. FRANCA ARENA: He is a friend of the ethnic community. He chose that portfolio. The editorial in today's *Australian* is headed "Carr opens debate on population". It reads:

In drawing attention to the adverse impact of population growth on Sydney's living space and lifestyle the NSW Premier, Mr Carr, has opened a constructive national debate. It is one in which he is especially well qualified to participate. He leads the most populous State, holds the Ethnic Affairs portfolio in NSW and has previously been a State environment minister. His concerns about the economic and ecological pressures developing in Sydney are firmly held and widely shared.

They are legitimate concerns on the part of Mr Carr. It is extremely important to remember that those concerns are shared by many people. I would be a liar - and I have never been a liar either inside or outside this Parliament - if I said I agree with my leader's suggestion that immigrants should be sent to rural areas. I place it on the record that I disagree with him on that issue. I say that with due respect to him. I know he is generous enough to understand that we are able to disagree. We are not living in the former Soviet Union or the new Romania. The Australian Labor Party is a democratic party, and I have the right to disagree with my leader. I do not believe immigrants can be sent to rural areas, because there are no jobs.

The Hon. D. J. Gay: There are no jobs for the people who are there.

The Hon. FRANCA ARENA: I agree with the Hon. D. J. Gay that there are no jobs for native-born Australians. During the election campaign I was in the Riverina for some time. All the young people told me, "I love this area, I love Griffith, but I cannot live here because there are no jobs." We must try to find jobs for people in rural areas; we must decentralise industry. I am sure the Government is committed to that concept. The Treasurer, who will prove to be one of the best Treasurers in the history of this State, will ensure that sufficient funding is made available so that industry can be decentralised.

The Hon. D. J. Gay: Can you stop Carr moving Cabramatta to Cootamundra?

The Hon. FRANCA ARENA: I do not know about that. All I can say is that every country in the world has the problem of people leaving country areas

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to move to the big cities because they are the only places they can find jobs. It is difficult to expect people to undertake reverse trips when nothing has been set up. When I arrived in Australia in 1959 I was sent to a camp in a rural area called Bonegilla, close to Albury-Wodonga. Migrants in many areas did not like Bonegilla. They liked Albury - Wodonga was not there then - but there were no jobs. We all caught a train to Sydney. However, migrants went to rural areas such as the Riverina, rural Queensland, where jobs were available cutting sugarcane, and the Snowy River scheme area, because jobs were available. They liked living in those areas because the quality of life was better and housing was cheaper. There is no reason why migrants would not want to visit those areas, but they cannot be made to go there. Who would police the system if this year 10,000 immigrants arrived in Sydney and were given a document stating that they must go to Albury?

The Hon. D. J. Gay: Franca, you have fixed the problems in Sydney.

The PRESIDENT: Order! I have said before in the House that I will not tolerate members being addressed by their first given name.

The Hon. FRANCA ARENA: This is a legitimate debate and these important issues should be addressed. However, honourable members should be aware that unfortunately in the community many people hate immigrants and our multicultural society. They only want to become involved in arguments and to talk badly about immigrants. We must be extremely careful not to fuel that type of debate. I can hold my head high anywhere on the Labor Party's record on immigration and ethnic affairs. Our multicultural society is a reality because of the actions of the Labor Party and the support given to many issues by the Liberal Party. It was a great day in State and Federal politics when this issue was given bipartisan support. This hiccup cannot stain the record of the Labor Party. I can assure honourable members that Mr Carr is a friend of ethnic communities. I have been his Parliamentary Secretary for the past four years. I have accompanied him to endless functions and meetings and have witnessed the empathy he has with people from ethnic backgrounds.

Honourable members should not forget that Mr Carr is married to an Asian immigrant, and I am sure Mrs Helena Carr would not mind my saying that. Some people may be prepared to throw mud and consider this a repeat of the Howard affair. That is not the case. Mr Carr is married to an Asian immigrant; he is a friend of the ethnic community; he chose the ethnic affairs portfolio because he loves the people. I give my word that I would not defend him if I did not believe that. However, he spoke without giving too much thought to the consequences of what he was saying.

I agree with the comments of the Hon. J. F. Ryan. There have been endless reports from the Ethnic Affairs Commission, the former Office of Multicultural Affairs and the Bureau of Immigration Research. I could not mention them all in the 15 minutes available to me, but all those studies have shown that immigrants are a plus and not a minus to this country. The attractiveness of our big city is due to its diversity and what it is able to offer. The Hon. J. M. Samios said that Sydney won the Olympic bid because it is a multicultural society. Sydney showed that Australia leads the way in multiculturalism, that more than 180 different ethnic groups, speaking more than 100 languages, can live together in a cohesive society. No matter what our political persuasion may be, we can be proud of that. Australia cannot close its doors and say to the rest of the world, "We are all right, Jack. You worry about yourself."

I realise that Australia is a fragile continent with salinity problems, but no-one could seriously assert that a population of 17 million people is the optimum for this enormous continent. One million Chinese could make areas of the Australian continent flourish that are thought barren, though I realise that considerable dedication, hard work and money are required to achieve those ends. Political capital should not be made out of people. That is why the immigration policy has become a bipartisan issue. A multicultural society has to be delicately balanced, and members of the Labor Party, Liberal Party, National Party, Australian Democrats, Call to Australia and other members on the crossbenches must do their utmost to ensure that this multicultural society is

always successful.

The Hon. PATRICIA FORSYTHE [3.06]: I congratulate my colleague the Hon. J. M. Samios for raising this key issue today. The words of the Hon. Franca Arena have assured honourable members that this has been not a partisan debate but a bipartisan debate. I was pleased to hear her contribution to the debate. It is appropriate that we mark this first business day of the term of the Government in this House with this motion, which shows that the coalition is proud of the city and proud of the contribution its people - including its migrants - have made. It shows that the Opposition is prepared to consider constructive solutions to any important issue.

I agree that the growth and future development of Sydney is one of the most important issues that faces decision makers and will certainly face the Government. That is why it is regrettable that the Premier has commenced his term in this way. He has chosen to use the issue of immigration and the role of migrants as a narrow focus upon which we can all debate this issue. The Premier has started from a populist position to which we in the coalition will not bow. By using immigration as the issue, Mr Carr has provided a scapegoat that will feed on the hatred and discontent in the community. It will be used as an excuse when things go wrong.

When I read the Sunday papers I tried to understand the motives behind the Premier's statement. Perhaps he might have had a number of motives. Perhaps he was trying to get the issue of waiting lists - an embarrassing issue for the Government - off the front pages of the newspapers. He certainly succeeded in doing that, though not for

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long I suspect. However, if that was his motive, he deserves condemnation because he has used migrants as a scapegoat. Perhaps he was looking for a convenient scapegoat for a future time so that when the policies of the Government - or lack of them - become obvious, he has a way out. Mr Carr will be able to blame someone else, not merely the migrants but the Federal Government, which will not be able to solve the problem to his satisfaction.

Whatever the Premier's motives, he has resorted to populist rhetoric that does neither he nor his Government any credit. Some weeks ago after I heard about the loss of the flower show for Gosford, the possibility that Luna Park might close and the inability to maintain the motor cycle grand prix at Eastern Creek, I was of the view that the Government should have a slogan. I was going to suggest that its slogan should be "Don't come to New South Wales for fun". But having heard Bob Carr in recent days, I suggest he has a new slogan, which is "Don't come to New South Wales". However, it is a serious issue that is not about slogans, but why Sydney has sprawled; the role of immigration in the development of Sydney; and what the role of decentralisation will be in the solving of some of the issues confronting Sydney. What will the whole of government approach be? This is certainly a much bigger issue, as I shall show, than merely immigration. Migrants have made an extraordinary contribution to Australia, particularly in the post-war years. I cannot imagine our society and culture without them. In April of this year Paul Keating said:

In modern multicultural Australia, industry is better able to locate and develop export markets because our entrepreneurs, managers and workers bring to the task invaluable knowledge, understanding and skills from their various countries of origin.

In these ways, Australia's immigration and multicultural policies add value to the nation's economic and trade strategies.

The Prime Minister spoke when we put on our best show for the Global Diversity Conference held in Sydney in April. We were showing the face of a city proud to be part of Australia and the international community, and trying to attract business. We were trying to convey that we are a grown-up society with a multicultural and sophisticated approach to these issues. That approach has not been reflected by the Premier in the past few days. We have heard from the Premier how New South Wales will lead Australia in business as a major international centre. The Prime Minister has demonstrated through his words the value of having migrant managers and entrepreneurs from different backgrounds drawn together in this country. However, the Premier appears to have turned his back on the Prime Minister's very positive approach of only last month.

I now look a little further at the issue of migration and its role in the urban sprawl - that is what this debate is all about. On the weekend the Premier tried to lay the urban sprawl issue firmly at the door of migration. I note that today the Premier back-peddled and said it was only one factor. It certainly is a factor, but when considered in context many other factors must be included. The figures for New South Wales outlined in a paper from the New South Wales Ministry for the Status and Advancement of Women, released in March of this year in conjunction with the Australian Bureau of Statistics, indicate the component of population change in New South Wales from 1988 to 1993.

A number of points need to be made about the place of immigration in this debate. Firstly, 1990 was the last year that net immigration from overseas outstripped natural increase in population. Secondly, the net overseas migration to New South Wales in 1992-93 - the last year in the statistics - was 12,600 people, compared with a natural increase of 45,000 people. At the same time the net interstate migration to New South Wales was just under 20,000 people. Therefore, the total increase in population is almost entirely the result of natural increase. In fact, it is slightly below the natural increase. In other words, the mere fact of the size of families increasing through children is the factor behind the current growth in population per se. One must go back to the 1980s to find migration to be a significant figure in the equation.

Of course, the Premier focused on now and the future, and one would think from his comments that the population increase was due to migration. It is not. Migration represents a very small part in the total increase in population. When considering these figures I refer to some comments I made a couple of days ago about the Premier's words. Women represent the majority of migrants to Australia. The Premier's comments hurt me a great deal because the family migrant category comprises 30 per cent more women than men. What is Bob Carr talking about? He is saying that we must reduce migration, and that clearly must be in the family reunion category because we would not cut back on migration on the grounds of skill and humanitarian considerations. The biggest category of migration to New South Wales is the family reunion category, yet the Premier's proposal would hit hardest in this area. It would hit women who are joining families in this country, and these will be the most disadvantaged people.

The figures in the report to which I referred earlier indicate that interstate net migration comprises more men than women, and we have a net loss in this area from New South Wales. Women should redress that imbalance, but women will be the losers from any cutback in immigration. I regret that this Government is showing that it does not support women or those who want to come to Australia under the family reunion migration scheme. I now turn to focus on some of the other issues involved in this debate. In 1992 a House of Representatives committee released a report on this matter entitled "Patterns of Urban Settlement", which read in part:

The overall impact of immigration within cities has been strongest in the more established suburbs. New arrivals traditionally settle in the inner and middle suburbs, a trend which has meant increased use of hitherto under-used physical infrastructure . . .

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Therefore, immigration is not at the heart of the urban sprawl. That point was made by the Hon. J. F. Ryan a few moments ago. The settlement patterns indicate that migrants settle in inner and middle suburbs - which have been losing population - and when that is taken into the context of planning in New South Wales, immigration results in better use of facilities. So why on earth put the focus on those migrants in the urban sprawl debate? It is not only a matter of immigration; the Premier has a narrow perspective.

Much has changed in the demographics of New South Wales. This change relates to the ageing population, the fact that people marry and have children later and that people leave home at a fairly young age. During the last few years the composition of Australian households has changed. An increase has occurred in the number of houses needed to sustain a smaller population. For instance, from 1966 until 1986 the dwelling stock increased by 51 per cent to cater for a population increase of 31 per cent. When we look for a reason for the urban sprawl in Sydney, it relates less to migration and more to changing demographics, that is, an ageing

population, households of only one or two persons, and people having families later in life.

The sprawl occurs because more houses are needed for a smaller population. In the 1960s only 14 per cent of the population was described as aged. The figure currently is 20 per cent and growing. These are the relevant factors; it is not a matter of a narrow perspective on migration. The House of Representatives report indicates that the composition of Australian households has undergone major change since the post-war years. The average household size has decreased from 3.55 persons in 1961 to 2.88 persons in 1986. In New South Wales in 1988 one and two person households comprised 50 per cent of the population compared with 35 per cent in the 1960s. The figure would certainly have been lower in the 1940s.

These are the factors we have to look at to explain the sprawl of Sydney. This brings me to the whole of government approach. How can the Premier condemn migration as a factor when his Minister for Planning has stopped the urban consolidation policies that are part of the solution to the problem? Where is the whole of government approach? We are told that we must look at immigration, but what will we do in the next 12 months while the matter is under review? Some of the newspapers are suggesting that the matter will be left to local government. What if local government does not get its act together? What if councils such as Ryde and Hornsby councils choose to ignore their own local environmental plans that they introduced to counter the previous Government's policies because now they think the present Government might be soft on them? These are the issues we have to focus on when considering migration.

That is what is so disappointing on this issue: a narrow group in the community is being blamed for so much but the debate is much wider. I have heard that it is likely that minimum rates will be reintroduced by local government. The people most affected will be those in strata title units. How will we encourage independent retirees into such accommodation? Where is the whole of government approach? It is disappointing that on the first day back in this sitting period we have to debate Government members on these issues. We need a whole of government approach, something much broader than the approach taken by the Premier. He deserves condemnation for his attack on migration. He has taken a narrow, populist approach. This is a complex debate which concerns demographics. It is concerned not with decentralisation but with regional growth. [*Time expired.*]

The Hon. ELISABETH KIRKBY [3.21]: I am very happy to speak in this debate after the Hon. Patricia Forsythe because she has raised many of the matters that I want to raise. Whether the migrant intake should be drastically reduced is an issue that must be put back into its box during the debate. I want to talk about urban sprawl and pollution but I do not want to talk about the intake of migrants. That is not the whole problem; it is not even the major part of the problem. It is absolutely wrong to be blaming migration. It is true that 37 per cent of migrants settle in Sydney. Despite this, Sydney's population growth is lower than that of the rest of Australia. It is only 1.1 per cent, as opposed to 1.3 per cent or 1.4 per cent for the rest of Australia. Forcing migrants to live in the country will not stop them from moving back to the cities after their work contracts run out. This was well documented to the Kelty task force inquiring into regional development. Its report stated:

Many regions, both rural and metropolitan, said it was undesirable for capital cities to continue to be overcrowded, with associated high costs in infrastructure provision and problems connected with environmental and social issues, while provincial towns were declining. To illustrate this increasing imbalance, the NSW Country Mayors' Association said that 73 per cent of the state's population lived in the Newcastle-Sydney-Wollongong corridor compared with only 36 per cent at Federation.

We may ask: why is this so? It is so because of totally inadequate planning control. Governments of all persuasions are responsible for that. The coalition Government during the 1960s and 1970s was as culpable as previous Labor administrations and later Labor administrations. The report continued:

Representatives from Wagga Wagga in the Riverina noted that Australia lacked a wide range of mid-sized cities of 50,000-200,000 people which optimised the amenities and cost efficiencies of infrastructure without the environmental and social problems of the capital cities.

Surely that is what we should be aiming for. The Government has it within its power to introduce sensible

planning controls to make it possible for business to relocate to the major country or non-metropolitan areas of New South Wales so that people will be persuaded to go to such areas. One of the most important problems relate to Sydney's water catchments, which must be protected as a matter of

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urgency. The Premier's Department estimates that Sydney will need 520,000 new homes within 25 years. Perhaps we should look at the type of trends emerging in residential accommodation. If there is a proliferation of one- or two-person households, why are we continuing to build three- or four-bedroom houses? Why do we not look seriously at rezoning some of Sydney's central business district buildings to turn them into residential accommodation? After all, not everybody wants to live in the suburbs.

We could make it mandatory that all new office buildings contain at least two floors of residential apartments. This is common practice in all the major European cities: Munich, Frankfurt, Rome and Brussels. There is residential and commercial accommodation within the central business districts of those cities. Why do we not require this in New South Wales? Sydney's overall health is being eroded by a tyranny of small decisions that affect particularly the coastline of New South Wales. In the Coffs Harbour area one of the biggest problems is lack of water. It may be necessary to dam the Nymboida River, one of the most magnificent rivers in this State. It is a wild and scenic river, but the Coffs Harbour council will be forced to take such action if it refuses to better utilise water and to undertake sewage recycling while the Coffs Harbour area grows at its present rate. A few moments ago the Hon. Patricia Forsythe mentioned the scrapping of dual occupancy laws. I hope the Premier read the editorial in today's *Sydney Morning Herald* under the heading "Bob Carr's vision". It stated:

Mr Carr is well aware that NSW governments have to adopt rigorous urban consolidation policies - such as greater opportunities for medium-density housing, urban infill, reinvigoration of old suburbs, conversion of old factories to home units - to increase population density in Sydney without substantially detracting from the quality of life. This is why the Carr Government's recent decision to abolish dual occupancy subdivision under State planning controls, without being in a position to substitute it with an alternative urban consolidation strategy, is hard to reconcile with Mr Carr's concerns.

It would be possible for Mr Carr, as Premier of the State, to introduce proper urban planning. That would reduce many environmental problems. The more people who live close to their areas of work the more likely they are to walk to work or take public transport. In the case of Sydney, they may use ferries as well as trains and buses. The solutions lie in the Premier's hands. He does not need to knock migrants. He could also look at implementation of major public transport infrastructure projects. For many years New South Wales had the Opera House lottery. The Premier could introduce a lottery to extend the heavy gauge rail network underground. There could be an underground rail link to the northern beaches. The new Rouse Hill development centre needs public transport infrastructure. A sensible way of recycling water has been introduced at Rouse Hill. Two qualities of water are available. Such a system could be introduced in other areas.

Unnecessary car use must be brought under control. Unless that is accomplished, air pollution cannot be reduced, and that has absolutely nothing whatever to do with the migrant intake. People will use public transport when it is safe, reliable, frequent and rapid. Regrettably, as is borne out in the appendix to the Kelty task force report, there is a move by certain developers to greatly expand residential housing inland. There are proposals for developments west from the central coast in the Wyong area and west from Toronto, simply because they are areas which could be made available for subdivision because they are close to the freeway. That will not be the answer and the Government will have to address this issue, whether or not the migrant intake is cut.

The migrant intake has been dropping. Figures are available to show that in the last 10 years the number of migrants coming to Australia has fallen quite dramatically. The highest rate of immigration occurred in the middle of the 1980s and has now dropped to 69,000 migrants per year; eight years ago it was 110,000 migrants per year. Immigration has been almost halved. Therefore, why are we attempting to put all the blame in this matter on the migrants? That is a totally irresponsible way of looking at the issue. I was interested to see the Australian Associated Press reported a statement on this matter by an Adelaide university professor of

geography, Professor Graeme Hugo. Professor Hugo said pollution occurs because of the way resources are used, and the way a city is organised can have an impact on the environment. He believes Sydney has been showing strains for some time, but he says that to say migrants must live elsewhere is putting the cart before the horse. He stated:

Without some sort of job creation in other localities it really can't be expected people will go to live there.

Professor Hugo believes that most Australians, including politicians - and certainly the Premier is one - have failed to come to grips with the complexity of the relationship between the environment and population. The Government needs to concentrate on environmental issues and not solely on immigration issues. The report prepared by Bill Kelty, which took a long time to compile, outlined recommendations for dealing with this issue. Either the recommendations of that report have not been read by Mr Carr's advisers, or they have been totally overlooked.

In conclusion I will put some of these recommendations on the record. There could be zonal tax allowances and rebates on fringe benefits tax in remote areas to remove disincentives to development. There could be an expansion of metropolitan telephone zones, a further rationalisation of STD zones, and equality of access to advanced telecommunications services across all regions. This incentive would persuade businesses to move to the major country centres such as Tamworth, Dubbo, Orange, Albury and Wagga Wagga - all major centres that need a further impetus to allow them to develop to their full potential. Land for dwellings is available in those areas, and not at enormous cost. This would

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certainly relieve the pressure on Sydney. With the introduction of the tilt train, which I hope the Government will continue to trial, people in country centres will not be divorced from the major cultural centre of Sydney, and would be able to reach Sydney rapidly. The Premier should address these issues. The stress and unhappiness caused to the migrant community by his comments will damage him and his new Government. I hope the Premier will now address the environmental issues and leave the migration issue to one side, because that is not the main problem.

Reverend the Hon. F. J. NILE [3.35]: I am pleased to participate in this debate, which has been triggered by the publication of statements made by the new Premier, the Hon. Bob Carr. I believe his references to immigration have been taken out of context, have been exaggerated and perhaps misinterpreted in the media. Certainly they may have been misunderstood by some of the ethnic communities. When I first read the press reports I found them very strange and inconsistent.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! Members should concentrate on the debate.

Reverend the Hon. F. J. NILE: It is inconsistent for the media and members of Parliament to attack the Premier in such a way as to imply that he has become a racist. I certainly do not take that to be implied or indicated by his statements. I do not believe that he is opposed to immigration on racist grounds. From my observation of Mr Carr's political activities over a number of years I believe he has set a high standard for a non-racist society. As the Hon. Franca Arena said, that has been demonstrated by his own personal lifestyle, and in his loving attitude to his wife, as a person who held the important position of Leader of the Opposition and is now Premier.

Other political leaders have not maintained the same standards that the Premier has set. I will not mention names, but I recall a political leader who believed his wife might have been a political embarrassment, so he left her and took up with a younger wife. He told his first wife that the change was necessary to assist his political career. Some political leaders might be embarrassed to have an Asian wife and might keep a low profile, out of the public eye. That is not Bob Carr's style; he has never done that. He has always set a high standard by his caring attitude towards his wife and by the way in which he has treated her in all public situations.

I do not believe that the Premier, by his statement, was blaming all the environmental and social problems

of Sydney on the numbers of migrants entering Australia. I believe he was simply saying - and it would be obvious to anyone - that it is one of the factors to be taken into account. Without immigration our population growth is almost zero. Without immigration we would maintain a static population in Sydney. It cannot be ignored; it is a factor. In saying that it is a factor I am not being racist or anti-ethnic.

If the number of migrants coming to Sydney were reduced, Mr Carr would be more than happy for the remaining quota to be taken up by Asians. That may not please all Australians. Some would rather have a mixed immigration quota of people from Europe and the United Kingdom, as well as from Asian countries. I do not know what Mr Carr's views are in this regard. If there were a small immigration intake, it would not surprise me if he found it acceptable for a high percentage of that intake to be Asian.

The Hon. M. R. Egan: He is married to one.

Reverend the Hon. F. J. NILE: I know, I have already made that point. I think it is inconsistent for honourable members to attack Mr Carr and to imply that there is some sort of racist element in his remarks. I believe that he is simply stating an overall view that we are facing many serious problems in Sydney, including environmental and social problems. There has been an increase in violent crime in some areas. There is also a practical problem with regard to the location of Sydney, which is the largest city in Australia. Sydney is locked in by the ocean on one side and by the Blue Mountains on another side, placing practical limitations to the growth and development of Sydney.

Sydney also faces environmental problems, such as a lack of water. All honourable members know that the former Government introduced strict water restrictions, which were in place prior to the recent heavy rainfalls. For some time there was serious concern about the dramatic drop in the water level in the Warragamba Dam. It highlighted the problem of population growth versus water supply for Sydney. There are also problems with pollution, smog, traffic, et cetera. We have tried to develop various freeways. There is currently controversy with respect to the M2 motorway. The M2 is an attempt to solve traffic problems, to get cars out of suburban streets and residential areas, and to reduce pollution and accident levels.

I am pleased that Mr Carr has not run away from these problems. Mr Carr has announced that a special group will be established to examine the various problems affecting the growth of Sydney. This study group will look at every aspect of these problems, including pollution, the environment, housing policies, transport policies, traffic problems, et cetera. Having read that Mr Carr has set up this study group, my only concern is that it will be comprised totally of bureaucrats and public servants. I do not think that is the way to go. It is not that I believe members of Parliament have the solutions to these problems, but I thought that there could be a way to have a more open examination of these problems. Perhaps a joint select committee could take submissions.

It has been said in other debates in this House that it is often the bureaucrats who cause the problems. Therefore, it may be the wrong way to go to suggest that the bureaucrats can provide us with some of the solutions. It may be that self-interest and

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problems bureaucrats have had in their administrations have contributed to the serious problems that now face our city. I would have preferred to have a more open investigation and to bring a report to the Parliament. There could be some kind of strategy plan for the growth and development of Sydney from now until at least the year 2000, the year Sydney is to host the Olympic Games. The strategy could have some imagination and a fresh look at these problems. The strategy could be adopted by the Parliament, possibly in a non-partisan way. With cooperation from the Government and the coalition, and with the support of those on the crossbenches, there might be a very positive strategy plan for the development of Sydney until the year 2000. I would have preferred to have seen that.

Perhaps Mr Carr could consider that as the next stage. Perhaps the bureaucrats could lay the groundwork and collect the factual material. Groups, organisations, lobby groups, individuals, specialists and experts could then make submissions to a more open inquiry so that we could have the benefit of their expertise. I realise that

issues are often used in Parliament to gain political points. I think this is such an example. I do not believe this motion is justified in the context of Mr Carr's remarks, his demonstrated policy or his lifestyle.

The Hon. R. S. L. JONES [3.46]: I congratulate Bob Carr on telling it how it is. A couple of years ago I wrote a letter to all newspapers in Australia which pointed out the problems of the massive immigration program for Australia, not the least of which was on the city of Sydney. In particular, I pointed out that each block which is developed in western Sydney costs taxpayers approximately \$70,000 of non-recoverable costs. We pay an enormous amount of money for the current immigration program. I was very grateful for the opportunity to come to Australia. I am glad I was accepted here, even though I am a pommy migrant. It is amazing how Australia has become such a multicultural country.

The Hon. J. R. Johnson: Were you a \$10 migrant?

The Hon. R. S. L. JONES: Yes, I was originally a \$10 migrant - and I had to pay the money back when I went home when my father died.

The Hon. J. R. Johnson: It cost \$10?

The Hon. R. S. L. JONES: Actually, in those days it was £10. We cannot by ourselves solve the world's population problems by allowing an unlimited number of people into Australia. The fact is that the world is now bursting at the seams.

The Hon. J. R. Johnson: Rubbish!

The Hon. R. S. L. JONES: I know the Hon. J. R. Johnson thinks that this is Malthusian bunkum. The world population is now 5.4 billion, and it is growing faster than ever before. It increases by 250,000 every day. The time it takes to add a billion people to the world population has become shorter and shorter. It took a century, from 1830 to 1930, to increase from one billion people to two billion people, but only 12 years to go from four billion people to five billion people. The next billion, which is the population of China, will take only 10 years. The United Nations environment program stated:

At five billion (people) we have now become a full occupancy planet. Natural stocks and resources are now in danger of collapse because of exploding populations and expanding economies.

The Worldwatch *State of the World Report 1993* stated:

Since 1984 per capita world grain output has declined one per cent per year. The expansion of agriculture in some areas is being offset as other land is abandoned because of erosion.

We alone cannot solve the world's massive, looming population problem. Robyn Williams of the Australian Broadcasting Corporation's science unit interviewed Dr Roger Short on 13 December 1993. Some interesting facts were disclosed during that interview. For example, every single day in the life of the world 100 million acts of sexual intercourse take place; 910,000 conceptions occur; 150,000 abortions are performed, and 500 mothers die as a result; 356,000 adults become infected with a sexually transmitted disease; and the world population increases by 250,000.

There is no doubt that Sydney is full. The world is full. We cannot have ever increasing growth. That is patently obvious. Problems relating to the overdevelopment of Sydney and the north coast have been raised again and again in this House over the last seven years, and no doubt they will be raised over the next eight years. Our current usage of water will see us having to build a \$500 million Welcome Reef Dam on the Shoalhaven River with all the attendant costs of that to the environment - it will drown productive farmland, old homes, cost \$1 million a week to pump water to Warragamba Dam and cause blue-green algae outbreaks.

For 1994 the immigration rate was set at 86,000 and the cost to Australian taxpayers was more than \$2

billion. Compare that with the World Bank estimate of \$3 billion per year spent on family planning by all developing countries. At present Australia contributes only 0.35 per cent of gross domestic product to international aid. An extra \$2 billion would bring this amount up to the United Nations target of 0.7 per cent of gross domestic product. Australia should be spending money to help people who wish to have a better standard of living in their own nations rather than inviting those people to come here to live and use up our scarcer and scarcer resources.

It is hypocritical of the Opposition to talk about racism and accuse Bob Carr of being a racist when the current Leader of the Federal Opposition has been blamed for exactly the same thing, talking about limiting Asian immigration. China has a zero net increase in population. During the 1980s Australia's growth rate under the Hawke Government was 1.7 per

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cent a year. Had that rate continued, the population would have doubled in 44 years. It has now dropped to 1 per cent, but it is still one of the highest rates among member countries of the Organisation for Economic Co-operation and Development.

This year the population will grow by approximately 180,000 people. If Australia maintains even that low growth rate of 1 per cent to 1.1 per cent, our population will double in 70 years. Where are those people to go? There will be no space. Australia has had the greatest number of extinctions of species in the world during the past 200 years. Australia is a very fragile continent. People, such as Tim Flannery of the Australian Museum, have been saying that Australia's optimum population is about 12 million. Without an increase in immigration, Australia's population will be 26 million by the year 2030.

Around the world cities are growing. In India, for example, the population growth is 2.1 per cent a year and the city growth is 4.1 per cent. Calcutta's population is 11.5 million, Bombay's population is 10.9 million. In Mexico City the population is 17.5 million and still growing and the city experiences faecal snowstorms on dry days. It is not a place where honourable members would want to live. I congratulate Bob Carr for his stand on this issue. We have to limit Sydney's growth and limit immigration into Australia. We cannot share our resources any longer because we do not have resources available. Land degradation is increasing and there is loss of productivity on the land, increased air pollution, increased water pollution, and destruction of rivers and the Australian coastline. I believe Mr Carr is going in the right direction and I congratulate him.

The Hon. J. M. SAMIOS [3.53], in reply: I thank honourable members who participated in the debate and I want to place on record one or two points. I noted with interest that the Treasurer, Minister for Energy, Minister for State Development, and Minister Assisting the Premier referred to the fact that Mr Carr had always held these planning ideas and I respect the fact that he was being consistent in relation to them. The Hon. Franca Arena, like myself, expressed concern that anyone could place a limit of 17 million on the population of this vast continent with its natural wealth and resources of agriculture and minerals. That view is diametrically opposed to the comments made by my parliamentary colleague the Hon. R. S. L. Jones, who placed great emphasis on the environmental problems confronting not only Australia but the planet.

The Hon. D. J. Gay referred in the debate to Cabramatta being moved to Cootamundra. Lest his comment be misinterpreted, I am convinced that he was referring to Cabramatta problems being moved to Cootamundra. The Hon. Elisabeth Kirkby placed great emphasis on environmental issues and referred to the Kelty report. Honourable members would find constructive most or some of the recommendations that were made to encourage business in rural areas of New South Wales, such as zone tax allowances and the removal of disincentives, a reference to the tilt train, and so forth. This debate has been constructive and has cleared the air about what I believe most honourable members have agreed is a serious problem confronting our burgeoning population in New South Wales.

The Hon. Ann Symonds: It is a very complex issue.

The Hon. J. M. SAMIOS: It is a complex issue, as the Hon. Ann Symonds has indicated, embracing myriad factors, including immigration, but not solely a question of immigration. I thank honourable members

for their contributions, even those members whose opinions were diametrically opposed to those I expressed in support of my motion.

Motion, by leave, withdrawn.

Pursuant to sessional orders, business interrupted.

QUESTIONS WITHOUT NOTICE

LOCAL COURT CLOSURES

The Hon. J. P. HANNAFORD: I direct my question to the Attorney General, and Minister for Industrial Relations. Is it a fact that the Attorney General's Department is examining a proposal to close a number of Local Courts in New South Wales? Is it also a fact that in recent years the department has advocated the closure of a number of courts and that all of those proposals have been rejected by the Minister's predecessors? Will he give an assurance to the House that he will not close any Local Courts in this State?

The Hon. J. W. SHAW: I have not given permission for, or authorised, the closure of any courts, and my predisposition is not to do so. Whether courts should be opened or closed is a matter to be considered in due course having regard to the facts and circumstances of a particular location and of a particular court. Any such proposal would obviously be considered with the presumption in mind that courts ordinarily should not be closed unless there is a very powerful case for doing so. The essential answer is that at the moment there is no proposition to close courts. Any such proposal would need to be supported by very strong reasons indeed.

ACCOMMODATION FOR THE DISABLED

The Hon. J. KALDIS: Will the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services inform the House of progress to date on the Government's pre-election promise to allocate \$50 million for new disability accommodation?

The Hon. R. D. DYER: I acknowledge the long-term interest and practical involvement of the Hon. J. Kaldis in the issue of disability

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accommodation. I am happy to report to the House that the first policy decision of the Carr Labor Cabinet was the delivery of the Government's election promise to provide \$50 million to help meet the individual needs of people with disabilities and their families. The Government is enormously proud of this initiative. It is important to note that this allocation is one of the most significant resource injections to disability services undertaken by the State.

[Interruption]

The Hon. J. F. Ryan well knows that the previous Government had sat on \$50 million since 1989; it did not expend those funds. The Government has taken this initiative because it understands that ageing parents of children with disabilities have genuine fears about the future of those children. The plan to which the Government is committed will provide real solutions to the concerns of these families. In general the funds are aimed at people with high support needs and ageing carers. Specifically, the Government's allocation will provide 300 supported accommodation packages for people with disabilities. These packages will encompass accommodation support; access to day programs; and access to program support to assist in the management of challenging behaviours and to develop appropriate individual programs tailored to the needs of each individual.

While the major priority for the funds will be people with developmental disabilities, other disability groups will be able to access these packages on a case-by-case basis when they meet the target criteria. The Government will provide \$26 million in one-off funding to purchase properties for group homes in regions of high need. The Government's commitment to disability service will be reinforced with \$24 million yearly in recurrent funding. That is this year and into the future. The new supported accommodation places will allow people with disabilities to move into independent living arrangements but still retain ties with the communities close to their families.

The accommodation services will provide a supportive environment for people with disabilities. They will give people opportunities to enjoy the lifestyle available to the community at large. In addition to the \$50 million, the Government will also put into effect the elements of the package announced by the previous Government - I hope the Hon. J. F. Ryan is listening - including funding for respite care, post-school options and a further 83 supported accommodation places. That is a significant commitment to people with disabilities in this State. It reflects the Government's concern to ensure the best available options are available to this sector of the community.

DISORDERLY HOUSES ACT ENFORCEMENT

Reverend the Hon. F. J. NILE: I ask the Attorney General, and Minister for Industrial Relations in his own capacity and as the representative of the Minister for Police a question without notice. Is it a fact that young women are being abused, tortured, exploited as prostitutes and used in drug trafficking in known brothels in New South Wales, especially in Kings Cross, such as the Pink Flamingo? Is it a fact that the previous Government prevented the New South Wales Police Service from enforcing the Disorderly Houses Act 1943 to close down these brothels? Will the Minister enforce the McKell Disorderly Houses Act 1943 and direct the New South Wales Commissioner of Police to take urgent action to close down these anti-women brothels?

The Hon. J. W. SHAW: If, as Reverend the Hon. F. J. Nile suggests, the previous Government directed police not to enforce the law of the land - that is, legislation - that would be a very unfortunate circumstance. I believe that if a law is on the statute books it ought to be enforced. If a law is inappropriate or unenforceable it ought to be amended. However, I shall refer the detail of the honourable member's question to my colleague the Minister for Police for a detailed response.

INNER WESTERN SUBURBS HOSPITAL COSTS

The Hon. R. T. M. BULL: I address my question to the Treasurer, Minister for Energy, Minister for State Development, Minister Assisting the Premier, and Vice-President of the Executive Council. Is it a fact that the cost of moving the Inner Western Suburbs Hospital will have to be met by the Department of Health? Is it also a fact that this cost will result in a cut in Department of Health services? Why will the Government not provide additional funds from the health budget to cover these costs? Does the Treasurer support the concept that the public be kept uninformed of the costs associated with the Canterbury Hospital project?

The Hon. M. R. EGAN: I would be delighted to refer the question to my colleague the Minister for Health. However, I can assure the House that health will be a top priority of this Government and, indeed, an extra \$64 million will be made available for 40,000 more operations in the New South Wales public hospital system each year.

UNIVERSITY OF WESTERN SYDNEY NAME CHANGE

The Hon. B. H. VAUGHAN: I direct my question without notice to the Leader of the House. Will the Government give consideration to the reinstatement of the name "Chifley" to the university presently known as

the University of Western Sydney?

The Hon. M. R. EGAN: I will refer that question to my colleague the Minister for Education and Training. I can assure the Hon. B. H. Vaughan, as I assure every other member of the House, that his suggestion will have my complete support. One of the most mean-minded acts of the previous Government was to change the name of Chifley University to the University of Western Sydney. It is

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one of the dreadful legacies of one of the former Government's heroes, Terry Metherell. I hope the Government will rectify that legacy as soon as possible.

ETHNIC COMMUNITIES COUNCIL WATERLOO PROPERTY PURCHASE

The Hon. J. M. SAMIOS: I ask the Treasurer, representing the Premier, Minister for the Arts, and Minister for Ethnic Affairs, whether he is aware that on 27 July the Ethnic Communities Council of New South Wales, the peak ethnic affairs organisation, will celebrate the twentieth anniversary of its foundation. Is the Minister also aware that the previous coalition Government offered the council the opportunity to purchase on terms premises at Waterloo previously leased by the council? Will the Minister give an assurance as to whether the Government will honour the previous offer to purchase given to the council and facilitate the process of purchase by the council?

The Hon. M. R. EGAN: The answers to the first two questions of the Hon. J. M. Samios are no and no. The answer to the third question is that the Government will look sympathetically at the proposal.

JUVENILE JUSTICE POLICY

The Hon. ANN SYMONDS: What steps has the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services taken to introduce the Australian Labor Party Government's new juvenile justice policies? What is the Minister's position on the implementation of the white paper initiatives?

The Hon. R. D. DYER: I am deeply grateful to the Hon. Ann Symonds for her question. I acknowledge her central role in developing juvenile justice policies in this State, particularly as deputy chair of the Standing Committee on Social Issues in the previous Parliament. Honourable members will be aware of the crucial role played by the committee in developing a juvenile justice policy, which led in turn to the green paper and, subsequently, the white paper on juvenile justice. The centrepiece of the Labor Government's new juvenile justice policy is the introduction of what it calls a minor offenders punishment scheme. This scheme will operate as an alternative to court processing, allowing restitution to victims and community work to be undertaken by juvenile offenders.

This scheme will incorporate the most desirable features of the many pre-court programs currently operating for juvenile offenders. Thanks to the ineptitude and mismanagement of the former Government, this Government has inherited a proliferation of ad hoc and often ill-conceived schemes operating around the State as an alternative to court processing without any legislative basis. The former Government failed to heed the expert advice on this issue provided in a series of reports, including the "Kids in Justice" report by the Youth Justice Coalition, the Standing Committee on Social Issues report on juvenile justice and the green paper prepared by the Juvenile Justice Advisory Council.

My colleague the Attorney General is now responsible for a pilot program established by his predecessor known as the community youth conferencing scheme. The Government is committed to rigorously monitoring and critically evaluating this pilot program in the coming months to ensure that a superior minor offenders punishment scheme is developed in a responsible and consistent manner. I should point out also that prior to the election the Government promised to restore juvenile justice to the community services portfolio. This already has been implemented, as I am now responsible for the Department of Juvenile Justice and the

Department of Community Services.

I take this opportunity, though, to assure the House that there is no intention to amalgamate the two departments; the Government believes it is appropriate to keep them separate. While there is a synergy between the two, as they often deal with the same young people, there are important philosophical differences between a welfare focus and a justice focus that must be observed and maintained. Unlike victims of child abuse and neglect, young people who commit crimes must be held responsible for their actions in a humane and constructive manner before they can be rehabilitated. I intend to preserve the separate identity of juvenile justice with its justice focus and the accumulated expertise of an experienced and professional staff. However, there are important considerations concerning the coordination of welfare and justice services for young people and many overlapping issues, which will undoubtedly be more effectively addressed by having one Minister responsible for both departments.

In terms of the white paper initiative, I have already made it clear that as the Government had received multipartisan support I intend to continue the implementation process. I agree in principle with the direction taken, though some fine-tuning is likely regarding the targeting of some programs and the adoption of priorities. In the meantime I have been informed that under the former Government supplementary funding for white paper initiatives in 1994-95 had not been fully expended. Apparently that was due to delays in funding approval and longer than expected lead time for the introduction of new programs. Unlike my predecessor, I intend to closely monitor the introduction of the vitally important new initiatives for juvenile offenders to ensure that they are accorded the priorities they deserve.

Already I have acted to implement white paper initiatives designed to reduce juvenile crime by appointing new juvenile justice program development officers in northern and western New South Wales. These officers will work closely with Aboriginal and other community groups to develop culturally appropriate programs and post-release services for juvenile offenders, particularly for young Aboriginal people. I intend to target these new initiatives in areas that were badly neglected by the former Government. One obvious area is the shameful level at which young Aboriginal people are so grossly overrepresented in the criminal justice system. In

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March, Aboriginal young people comprised 28 per cent of the juvenile justice centre population. That is scandalous when it is considered that only 1.8 per cent of the New South Wales youth population is Aboriginal.

Not only did the former Government fail to reduce the level of overrepresentation but also it presided over a significant increase in recent years. I have been informed that from March 1994 to March 1995 the number of Aboriginal young people in juvenile justice centres increased by 30 per cent, from 109 to 142. At the same time the overall number of juveniles in detention increased by only 19 per cent. I will ensure - and I am very serious about this - that white paper programs are used to target difficult issues in a sensitive and consultative manner, unlike the former Government, which complacently ignored many significant problems.

HIGH NITROGEN FERTILISERS

The Hon. ELISABETH KIRKBY: Will the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services give an assurance, in the light of the act of terrorism that took place recently in Oklahoma in the United States of America, that mechanisms are in place in New South Wales to trace purchases of high nitrogen fertilisers? If so, will the Minister give a further assurance that individual purchases of single bags of such high nitrogen products are able to be traced? If not, will the Minister give an assurance that such a system will be implemented?

The Hon. R. D. DYER: At this point I cannot hold myself out as being an expert in agricultural matters. I say that without in any way wishing to trivialise the question of the Hon. Elisabeth Kirkby. However, I must say that I might be described as a Macquarie Street farmer.

The Hon. D. J. Gay: Are you a farmer?

The Hon. R. D. DYER: Only in a rhetorical sense. The question asked by the Hon. Elisabeth Kirkby raises an important matter. I will refer it to my colleague in another place, the Minister for Agriculture, and convey a suitable reply to the honourable member at an early date.

NATURAL RESOURCE AUDIT COUNCIL

The Hon. Dr B. P. V. PEZZUTTI: My question is directed to the Treasurer and Leader of the House. Given the seminal importance of the report of the Standing Committee on State Development on coastal planning and the previous Government's substantial implementation of its recommendations, is it correct that the Natural Resource Audit Council has been removed from the Cabinet Office? Does this mean that the Labor Government will be placing little importance on the essential work of the council? What guarantee can the Government give of its continued support?

The Hon. M. R. EGAN: I will ascertain an answer from the Premier.

WOMEN AND WORK UNIT

The Hon. Dr MEREDITH BURGMANN: My question without notice is directed to the Attorney General, and Minister for Industrial Relations. Is the Government aware of the operations of the former Government's women and work unit and does it support the continued operation of the unit? What does the Government see in the future for the women and work unit?

The Hon. J. W. SHAW: The honourable member obviously has an interest and expertise in issues of pay equity and the impact of industrial relations on women employees. In 1991 the former Government abolished the women's directorate, part of the former Department of Industrial Relations, Employment, Training and Further Education, and replaced it with an underresourced and understaffed women and work unit. The unit's activities were restricted to largely administrative and monitoring functions and achieved no real results. It was denied a major role in industrial relations policy development and the ability to influence substantial improvements to women's employment. The former Government obviously held the view that work and family issues and the development of equitable pay and employment conditions for women were not important and not a priority - it allowed the unit to languish. The unit was operating with only three permanent staff members; it was marginalised and isolated. Therefore, it has been necessary to review the operation of the unit, and the Government has acted urgently to do so.

This Government has increased the staff in the women and work unit to five, and it is investigating further appointments. A review has been instituted to ensure that the unit is properly resourced to facilitate the Government's goal of improving women's pay and employment equity. The position of the unit - isolated in a large department and underresourced - indicates the obvious low regard in which the former Fahey Government held industrial relations issues affecting women.

Industrial relations issues that affect women are a priority for this Government, and I am especially committed to enhancing women's pay and facilitating employment equity and equal employment opportunities. The outcome of the unit's research will contribute to a new Industrial Relations Act that will provide a legislative framework that encourages equitable outcomes for women. Under proposed legislation, the New South Wales Industrial Relations Commission will be bound to apply principles of pay equity to ensure that over time the gender gap between male and female rates of pay is reduced. This Government is committed to expanding the role of the women and work unit and will provide the unit with adequate resources to ensure that actual improvements are effected.

The Government will take the following necessary and important steps: first, the unit will monitor awards and agreement to ensure that they are not discriminatory. Second, it will research, develop and implement the Government's pay and employment

equity and equal employment opportunity policies. Third, the women and work unit will also, on behalf of the Crown, make representations before State and Federal industrial tribunals in matters that canvass equity issues. The Government recently supported the introduction of leave to care for family members in the New South Wales family leave test case - which was handled by the women and work unit. Fourth, the women and work unit will also play a key educational and consultative role to inform and encourage equitable pay and working conditions. This will be undertaken in consultation with representatives from unions and employer groups.

Fifth, the women and work unit will continue to develop, promote and assist in implementing work and family policies as a key aspect of improving women's employment equity and productivity. Together these measures will assist employees, employers and trade unions to develop appropriate industrial relations practices. In short, the unit will be a priority for this Government. It will be better resourced and will be more active. This indicates that the Government gives a higher priority to this type of issue when compared with what occurred during the past seven years.

DECRIMINALISATION OF MARIJUANA

The Hon. J. F. RYAN: My question is directed to the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services, representing the Minister with responsibility for juvenile justice. Is it a fact that the Bureau of Crime Statistics identified in a recent report that juveniles involved in higher levels of marijuana usage were also involved in a higher level of break, enter and steal and car theft offences? In view of this revelation of a clear connection between high levels of usage of marijuana among juveniles and high levels of property offences, will the Minister give the House an assurance that the Carr Government will not decriminalise marijuana?

The Hon. R. D. DYER: I thank the Hon. J. F. Ryan for his question. At this stage I have not had an opportunity to appraise the report arising from the survey to which he referred. However, I assure the honourable member that the Government is committed to dealing with the individual factors that contribute to offending behaviour. The Department of Juvenile Justice structures its service around case management. The case management system is designed to assist each client to identify and address those factors that have contributed to their offending behaviour. Multidisciplinary teams involved in monitoring case plans include case managers, psychologists and alcohol and other drug counsellors.

The Department of Juvenile Justice has been aware for some time of the high incidence of alcohol and/or drug usage among its client population. A known relationship exists between drug usage and offending behaviour, although the exact nature of the relationship remains unclear. The green paper on juvenile justice emphasised the need for more comprehensive drug treatment programs. To this end the new coordinated alcohol and other drug program provides secondary and tertiary alcohol and other drug intervention programs across detention centres. The aim of the alcohol and other drug program is to reduce the harm associated with drug usage, which includes offending behaviour. For example, program goals include reducing illicit drug usage and crimes for the purposes of procuring drugs. This is in line with the New South Wales drug strategy.

An alcohol and other drug counsellor is attached to each juvenile justice centre to provide counselling and assessment services for those young persons who have alcohol and/or substance abuse problems. All youths are assessed at admission by health personnel on their recent drug usage, and many young people accept referral for alcohol and other drug intervention. An increase in the number of people being seen by counsellors is occurring. The alcohol and other drug program provides assessment, brief intervention, educational and therapy groups, court reports, individual counselling, liaison and consultation. Large numbers of these people receive brief intervention and educational group intervention, and significant numbers receive tertiary interventions. For example, comprehensive assessment, schools training and relapse prevention are provided for those youth who have harmful alcohol and other drug patterns and are ready to change.

The question of the decriminalisation of marijuana raised by the honourable member does not fall within

the administration of the Department of Juvenile justice; it falls outside my direct departmental responsibility. The question might well have been directed to my colleague the Attorney General, or perhaps to me representing the Minister for Health. Nevertheless, I hope I have enlightened the honourable member regarding the drug treatment program provided by the Government.

DECRIMINALISATION OF MARIJUANA

The Hon. J. F. RYAN: I have a supplementary question for the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services. Does his answer mean that the Government will not decriminalise marijuana?

The Hon. R. D. DYER: I thought that I made it clear that this matter does not fall within my administration. The Hon. J. F. Ryan is not normally so obtuse as not to understand the purport of things said in this House. I have known him for some years, and he normally has sufficient intelligence to understand what I, or any other member, say in this House. However, on this occasion the honourable member has a perception problem. I repeat: this is not a matter falling within my responsibility, and the Government has not announced any decision relating to this matter.

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LEGAL AID GRANTS FOR ENVIRONMENTAL MATTERS

The Hon. FRANCA ARENA: My question is directed to the Attorney General, and Minister for Industrial Relations. Is he aware that the Legal Aid Commission has imposed a ceiling of \$100,000 on grants for environmental matters for 1994-95? Does the Attorney General agree that this paltry amount needs to be increased as people do not bother to apply for environmental legal aid because the average \$2,000 allocated per case is not enough to enable a case get off the ground, let alone pursue it to a hearing? Will the Attorney General please ensure that in the next budget extra funding is allocated to this important area?

The Hon. J. W. SHAW: The allocation of funds to legal aid is essentially a matter for the independent Legal Aid Commission. However, I have been of the view for a long time that insufficient funds are devoted to civil legal aid matters generally and that more resources should be allocated to environmental matters. We are assisted by our Federal colleagues, the Federal Attorney-General, Mr Lavarch, and the Prime Minister, who have indicated that greater resources will be allocated for legal aid. I hope that in the civil area generally the Government can provide greater resources, although, at the end of the day, the resources available for legal aid will be determined in the budgetary process.

SHARE TRANSACTION STAMP DUTY

The Hon. HELEN SHAM-HO: My question is directed to the Treasurer. Is he aware of the action yesterday by the Queensland Government to halve the stamp duty on share transactions in that State from 0.6 per cent to 0.3 per cent? Last year this duty of 0.6 per cent raised \$497 million for New South Wales and Victoria. Given that any move by New South Wales to equal the reduction by Queensland will result in an increase in taxes and charges in New South Wales - I heard the Treasurer speaking about this on the radio this morning - what taxes and charges will be increased to meet the income shortfall?

The Hon. M. R. EGAN: I thank the Hon. Helen Sham-Ho for her question. For half an hour I was worried that the question might not be asked. I had actually arranged a dorothy dixer from my own side. We now do not need to proceed with it. I was amazed this morning to hear on the Clive Robertson radio program the member for Miranda, the shadow treasurer - for the information of honourable members, he was today suspended from the Lower House after a most rowdy and disgraceful exhibition by the Opposition members there - describe the Queensland move as laudable.

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

The Hon. M. R. EGAN: The Hon. Dr B. P. V. Pezzutti agrees. I shall read a letter that has just gone to the Federal Treasurer, Mr Ralph Willis:

Dear Treasurer

I am writing in regard to the recent announcement by Queensland to halve the rate of stamp duty on share transactions.

As you are aware, due to the process of horizontal fiscal equalisation, New South Wales and Victoria already subsidise Queensland to the tune of over \$600 million a year. Any initiatives by Queensland to reduce its tax rates would further increase the haemorrhage from our two States.

You will understand why I do not take lightly the latest tax cut by Queensland. Any attempt on Victoria's and New South Wales' part to match this move would result in the yearly loss of approximately \$125 million for New South Wales and \$100 million for Victoria.

It is not acceptable that tax policy choices by Queensland, which has long enjoyed a subsidy from New South Wales and Victorian taxpayers, should result in those very taxpayers receiving even less than they already do.

This again highlights the anomalies inherent in the present horizontal fiscal equalisation process. There is no objection to large States subsidising small ones such as Tasmania or the Northern Territory. However, there is no reason why the largest States (Victoria, New South Wales, Queensland and Western Australia) should not be placed on equal footing.

I therefore urge you to consider a review of the fiscal equalisation process, with the aim of achieving fairer treatment for taxpayers in donor jurisdictions. Financial transfers through fiscal equalisation should be made only to the truly needy and deserving jurisdictions.

That letter was signed by the Victorian Treasurer, Mr Alan Stockdale. I am pleased to announce that I have also sent a letter in identical terms on behalf of the New South Wales Government.

The Hon. Patricia Forsythe: Could you not think up your own letter?

The Hon. M. R. EGAN: I think he might have actually copied my letter. It is all very well for Ron Phillips, the member for Miranda in the other place, to describe the Queensland move as laudable, but it will cost this State \$125 million a year if the Government matches the Queensland move. If the news I heard today - that the Queensland Premier has threatened that if Victoria and New South Wales match his move he will abolish the tax altogether - is correct, it will cost New South Wales \$250 million a year. I do not mind competition between the States; I welcome it. But it has to be on a level playing field. The simple fact of the matter is that each year New South Wales is short-changed to the tune of \$1.2 billion and Queensland benefits to the tune of \$800 million.

The Hon. J. P. Hannaford: You did not regard this as relevant last year.

The Hon. M. R. EGAN: The Leader of the Opposition indicates that this is the first time that I or the Government has raised the issue. He has a very short memory. Bob Carr went to a national press conference in 1991 and put it on the line there that the Labor Party supported the stance of the previous Government in its justified complaints against the unfair financial treatment of the States. Queensland can make such concessions only because it has been freeloading on New South Wales and Victoria for

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decades. I just hope that the latest predatory banditry and thuggery, as I think my two Democrat colleagues have called it - it reminds me of the thuggery we expected from Joh Bjelke-Petersen - will start a complete overhaul of the financial reimbursement arrangements of the States. There is absolutely no justice in the taxpayers of this State or Victoria subsidising Queensland or the smaller States to poach business from us.

The Hon. Helen Sham-Ho asked what we are going to do about it. First we will see whether there is any legal way of preventing the haemorrhage of revenue, although I have to admit that I think the possibility is very remote indeed. We have to find either \$125 million or \$250 million on top of the \$400 million underlying budget deficit that we have been left by the previous Government. That is also on top of the previous Government's commitment that it told us before the election had been fully incorporated into the forward estimates. Lo and behold, when the Labor Party came to office Treasury revealed that no such provision had been made. Two commitments in particular that I draw to the attention of honourable members are the \$400 million cost of the Parramatta-Hornsby rail link and the commitment of, I think, \$115 million a year for computers and technology teachers in schools.

Honourable members will remember that just before the election, at a press conference on level 6 of Parliament House, Peter Collins scurried away like a coward when I challenged him to a debate. He assured the press gallery and the people of New South Wales that the commitments had been fully funded in the forward estimates. That was not so. In addition to the \$125 million or \$250 million gap caused by the predatory banditry of the Queenslanders, somehow the Government has to cover the \$400 million underlying deficit and the commitments that the previous Government falsely claimed were in the forward estimates. So, unless we want to jeopardise our AAA credit rating, something has to give. I announce today that in the next few days or the next couple of weeks the Government will be looking at all the options.

LEGAL DEFENCE OF HOMOSEXUAL PANIC

The Hon. P. F. O'GRADY: Is the Attorney General aware of a number of instances of the use of a homosexual panic defence when a person charged with murder has been acquitted or given a light sentence after alleging that the victim had made a homosexual advance? Does the Minister agree that this is similar to a case in which a rapist is acquitted because he claims that the woman led him on? Will the Government investigate the psychological basis for the so-called homosexual panic defence and the use of homosexuality of the victim as a defence for violent crimes?

The Hon. J. W. SHAW: The Hon. P. F. O'Grady has raised a sensitive and difficult issue concerning our criminal justice system. When an accused person alleges force was used against another person to protect himself or herself against alleged sexual advances, this may raise the issue of self-defence, although of course it is important that our courts apply these tests in an objective non-discriminatory manner. If self-defence is properly raised, a jury will be given appropriate directions on the law of self-defence. However, the sexuality of a victim will have no bearing on the way in which the law is applied. The question to be asked in all cases in which self-defence is raised is whether the accused believed on reasonable grounds that it was necessary in self-defence to do what he or she did. If he or she had that belief and there were reasonable grounds for it, or if the jury is left in reasonable doubt about the matter, the accused is entitled to an acquittal. It is for the Crown to exclude the defence of self-defence beyond reasonable doubt.

Where self-defence is raised due to an alleged sexual advance and a jury acquits, that acquittal may have been reached on a number of grounds. Where bias exists, or is thought to exist, in the community at large there may be temptation to attribute an unexpected verdict in a particular case to such bias. Because one is rightly prevented from discussing the case with the jury, one can never be sure of the reasons behind the verdict. For example, an accused person might allege that he was also physically assaulted by another person and it might be this factor which leads to an acquittal. Equally, a jury may acquit on the basis of a reasonable doubt about the matter, or some matter necessary for the prosecution to prove. Ultimately it must be recognised that in these cases the final decision is for the jury after a consideration of all the evidence, although judges should give appropriate directions to ensure that the verdict is not based on prejudice.

A jury, of course, does not give reasons for its verdict. However, even with this limitation in mind it does not appear to have been demonstrated that there has been an isolation of the issue of the so-called homosexual panic defence or any other similar defence in any relevant case in New South Wales. Of course, a

discriminatory defence of that kind should not be entertained by a court. I will instruct officers in my department to monitor the application of the law of self-defence in criminal trials involving an alleged homosexual advance by the victim. I have already requested a review of the law on self-defence generally and it is appropriate that this issue be considered in that context. That review should take place on the basis that homosexual relationships are not unlawful in New South Wales and therefore should not be the subject of untoward or discriminatory treatment in our criminal justice system.

HOMICIDE VICTIMS SUPPORT GROUP

The Hon. ELAINE NILE: I address my question without notice to the Treasurer, Minister for Energy, Minister for State Development, Minister Assisting the Premier, and Vice-President of the Executive Council. Is it a fact that the previous

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Government gave only a ridiculously low amount of \$20,000 to help establish the work of the Homicide Victims Support Group counselling centre at Waterfall? In view of the Government's commitment to the victims of crime support, will the Government urgently review this allocation and substantially increase it to \$100,000 annually so that the rapidly growing Homicide Victims Support Group of over 400 persons will be able to adequately provide its important counselling and support services to the suffering families?

The Hon. M. R. EGAN: In relation to the first part of the honourable member's question, I do not know. In relation to the second part, I will be happy to review the allocation and will advise the honourable member of the outcome once that is done.

WATER CHARGES

The Hon. R. J. WEBSTER: My question without notice is directed to the Leader of the Government, Treasurer, Minister for Energy, Minister for State Development, Minister Assisting the Premier, and Vice-President of the Executive Council, representing the Minister for Urban Affairs and Planning, and Minister for Housing. Is it a fact that the Labor Party promised before the election not to increase water charges? Is it now a fact that Sydney Water Corporation is proposing to increase water charges by up to \$40 more per year per household? Will the Minister insist that his colleague resign if this promise is broken?

The Hon. M. R. EGAN: As I understand it, one of the few people around here who will be resigning soon is the Hon. R. J. Webster. He will be joined, so I am told, by the Hon. Virginia Chadwick and the Hon. S. B. Mutch, who has just won preselection for the Federal electorate of Cook, where I reside. Of course, he will have to resign from this Parliament to contest the Federal election and that is really a very silly career move for the honourable member. He has made absolutely no mark on this place in the seven years that he has been here. He is now hoping to take the place of one Liberal Party seat warmer, the present member for Cook.

Judging by what the honourable member has done here during the last seven years, the people of Cook can be assured that if they make the mistake of electing another Liberal member, they will certainly have another seat warmer for however long he happens to be there. I do not think he will win; Labor will win that seat. Mark McGrath is a fabulous young candidate who will beat the Hon. S. B. Mutch as decisively as I did when I beat him in 1981 by 5,000 votes for the safe Liberal seat of Cronulla.

The Hon. R. J. Webster: On a point of order: I have listened to this turgid diatribe from the Leader of the Government for some minutes. He is yet to answer the question as to whether he will insist that his colleague resign if water prices increase.

The PRESIDENT: Order! The honourable member, as a former Minister, should be well aware that there is no obligation on the Minister to answer the question.

The Hon. M. R. EGAN: Honourable members do know that the Hon. R. J. Webster intends to retire from this Parliament soon and we all assume that the Hon. E. P. Pickering will retire from this Parliament because he said he would never ever sit in this House in Opposition. I am concerned that the two honourable members have not already gone because that indicates there is still something seriously wrong with the labour market: they cannot get jobs and they will stay here until they get jobs. I would like to offer whatever assistance the Government can give through the Commonwealth Employment Service and I am sure the State Government also has agencies that would be happy to assist them to obtain some suitable employment.

I assure the Hon. R. J. Webster that there will be no Minister of the Government resigning because the Government will keep faith with the people of New South Wales, unlike the Greiner Government, which broke 200 promises in its first 12 months in office. On the issue raised by the honourable member, if anyone should resign in disgrace it is the Hon. R. J. Webster. He was the Minister responsible for the Water Board and he assured us that all those projects would not cost the water ratepayers an extra cent - that was an absolute untruth.

M2 MOTORWAY CONTRACT

The Hon. R. S. L. JONES: I ask the Attorney General, and Minister for Industrial Relations whether it is a fact that there are serious allegations based on substantive evidence and an opinion by a leading Queen's Counsel that a prospectus for the M2 motorway issued by Hills Motorway Trust, contravenes section 52 of the Trade Practices Act under corporations law. Will the Attorney General now investigate the possibility that the contract itself may have contravened the Monopolies Act?

The Hon. J. W. SHAW: There is an advice from senior counsel that has been made available to my department in relation to the M2 contracts. As the honourable member will be aware, my department earlier provided advice that the contracts entered into by the previous Government were lawful and binding, and that any breach of the contracts could lead to legal action, resulting in serious damages being payable by the Government. The Government has been considering the advice of senior counsel and is prepared to further consider that advice. I start from the presumption that the Government's original view was correct and that the contracts are lawful and binding.

STUDENT TRAVEL CONCESSIONS

The Hon. J. H. JOBLING: My question without notice is addressed to the Treasurer, Minister for Energy, Minister for State Development, Minister Assisting the Premier, and Vice-President of the Executive Council, representing the Minister for Transport, and Minister for Tourism. Given the assurances and pre-election promises of the Minister

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for Transport to grant travel concessions to full fee-paying and overseas students, will the Government give an undertaking that it will honour its commitment, and when will these concessions be introduced?

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

M2 MOTORWAY PROTESTER PROSECUTIONS

The Hon. I. COHEN: My question without notice is directed to the Attorney General, and Minister for Industrial Relations, representing the Minister for Police. Is the Minister aware that police are being pressured to charge protesters involved in non-violent action at the M2 construction site with intimidation instead of a lesser charge, at the behest of the Abigroup consortium, which is seeking compensation of up to \$2,000 from each protester charged?

The Hon. J. W. SHAW: I am not aware of any alleged pressure being placed on police to lay particular

charges. Of course, what crimes people are charged with is a matter within the discretion of the police officers concerned. They should not be subject to any pressure of that kind, if indeed they have been. I will refer the matter to my colleague the Minister for Police in order to ascertain the correctness or otherwise of what the member has asked.

LABOR PARTY ELECTION PROMISES

The Hon. D. J. GAY: My question is addressed to the Treasurer, representing the Premier and the Minister for Roads. Will the Minister give a clear commitment to this House that, unlike the Federal Labor Party, the Egan-Knight-Carr Government will honour all its election promises, in particular those relating to roads and tollways?

The Hon. M. R. EGAN: I am delighted to assure the Hon. D. J. Gay and the House that, unlike its predecessors, this Government will keep faith with the people of New South Wales.

LABOR PARTY ELECTION PROMISES

The Hon. D. J. GAY: I ask a supplementary question. Does this commitment include promises made on behalf of the Labor Party by members of the Legislative Council? Does this commitment include promises made on behalf of the Labor Party by candidates at the last election?

The Hon. M. R. EGAN: This Government will keep faith with the people of New South Wales.

JUVENILE CRIME

The Hon. D. F. MOPPETT: Is the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services aware of widespread concern over the incidence of juvenile offences in western townships? Is the Minister aware that the Children (Parental Responsibility) Act, which was recently passed by this House, has been acclaimed by civic and local government leaders in those towns? Will the Minister advise the House of progress in establishing proclaimed refuges in Bourke and Walgett, in particular, so that the provisions of the Children (Parental Responsibility) Act can be implemented?

The Hon. R. D. DYER: The Hon. D. F. Moppett will be well aware that the parental responsibility legislation was enacted by this Parliament last December, with the support of the then Government and the then Opposition. The legislation to which the honourable member referred enables police to pick up unaccompanied children and either take them home or take them to a prescribed intake place - otherwise described as a prescribed place of refuge. The legislation also permits the Children's Court to require a parent to attend court and to give undertakings to the court.

The Hon. J. P. Hannaford: The police in Gosford are happy with the pilot program.

The Hon. R. D. DYER: The former Government chose to limit the operation of the legislation. In this regard, a trial was undertaken in two pilot sites, Orange and Gosford. The Leader of the Opposition mentioned that the police in Gosford believe the legislation is working well. My advice is that as at 18 May, only eight children had been picked up under the legislation. Of those children, five were picked up in Orange, with one escorted to an intake place; and three were picked up in Gosford, with two escorted to an intake place.

The intake places to which I have referred are provided by the Department of Community Services. The estimated cost per intake place is \$89,284 for this financial year - that is only a part-year operation. The estimated cost for a full year's operation is \$210,596. I intend to consult my colleagues the Attorney General and the Minister for Police in another place to carefully monitor the operation of the pilot schemes to which I

have referred to ensure that public funds are utilised in an effective and responsible manner. I am aware of the concerns held by the non-government sector in relation to the legislation.

I am also aware that several communities, including Taree, Wagga Wagga, Oberon, and some western towns such as those referred to by the Hon. D. F. Moppett, believe that an extension of the pilot scheme would address their concerns about juvenile behaviour. However, as the pilot scheme is scarcely three months old, it is my view - and that of the Government - that it would be premature to extend it at this stage.

Another matter that has been aired in relation to the Children (Parental Responsibility) Act is its alleged contravention of the provisions of the United Nations Convention of the Rights of the Child, to which Australia is a signatory. This matter will be

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dealt with when I consult my colleagues in regard to the operation of the legislation. The arrangements to which I have referred will allow a timely and considered assessment as to whether the legislation provides an adequate and appropriate method of addressing public concerns with respect to juvenile behaviour.

PUBLIC HOSPITAL WAITING LISTS

Reverend the Hon. F. J. NILE: My question without notice is directed to the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services, representing the Minister for Health. Is it a fact that the newly appointed Minister for Health, when Deputy Leader of the Opposition, promised to appoint an ombudsman for public hospital waiting lists? Will the Government fulfil its promise and appoint an ombudsman for public hospital waiting lists, rather than have a series of committees, to ensure that this controversial issue is dealt with by an independent, neutral and objective ombudsman on behalf of the people of New South Wales?

The Hon. R. D. DYER: I shall refer the question of Reverend the Hon. F. J. Nile to my colleague the Minister for Health in another place. A considered response will be provided to him with respect to the important matter he has raised.

DECRIMINALISATION OF MARIJUANA

The Hon. J. F. RYAN: My question without notice is directed to the Attorney General, and Minister for Industrial Relations. In view of the noncommittal response I received from the Attorney General's colleague in response to my earlier question, does this mean that the Government will eventually decriminalise the use of marijuana?

The Hon. J. W. SHAW: The Government has no commitment to the decriminalisation of marijuana. Perhaps I am an unusual Minister, but I do not have a concluded view on every policy topic within the realm of New South Wales politics. The Government is prepared to carefully and objectively look at the experiences of the decriminalisation of marijuana in the Australian Capital Territory and in South Australia. We are prepared to look at the evidence and to take an empirical and objective view. We will consider the way in which those legislative changes have worked in practice. We will take the policy course that seems to us to be in the best interests of the people of New South Wales.

DEFAMATION LAW REFORM

The Hon. ELISABETH KIRKBY: Will the Attorney General, and Minister for Industrial Relations advise what, if any, changes to the law of defamation the Government intends to introduce during this session of Parliament? In view of the extensive work already done by the New South Wales Law Reform Commission, does the Government intend to consult closely with the commission? If not, why not?

The Hon. J. W. SHAW: Defamation law reform is high on my list of priorities; it is a very important area. I start with the presumption that it is desirable to have uniformity in defamation laws throughout the States and Territories of Australia. The New South Wales Law Reform Commission has done much work on this topic. I think it is due to produce its recommendations soon. Obviously, those recommendations will be of enormous persuasive power in relation to the Government's thinking on the topic. To answer the question of the Hon. Elisabeth Kirkby, in the light of the recommendations of the New South Wales Law Reform Commission we will certainly consult all interested groups and persons before bringing a legislative package to this Parliament.

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

Questions without notice concluded.

FIRE BRIGADES AMENDMENT (CONTRIBUTIONS) BILL

Bill received and read a first time.

CONSUMER CREDIT (NEW SOUTH WALES) BILL

Bill received and read a first time.

TOTALIZATOR LEGISLATION AMENDMENT BILL

Bill received and read a first time.

SESSIONAL ORDERS

Motion for Adjournment

The Hon. M. R. EGAN: I seek leave to amend notice of motion No. 7, about which I have given notice.

Leave granted.

Motion by the Hon. M. R. Egan agreed to:

1. On any Motion for adjournment to terminate a sitting:
 - (a) the Question is to be put not later than 30 minutes after the Motion has been moved or, when a Minister desires to speak or is then speaking, at the conclusion of the Minister's remarks;
 - (b) any Member may speak for 5 minutes on matters not relevant to the Motion, but must not refer to matters which are not in order.
2. Proceedings must be interrupted at 4.15 p.m. on Thursday and 3.45 p.m. on Friday to permit a Motion for adjournment to be moved to terminate the sitting if a Minister thinks fit.
3. If, at the time of interruption:
 - (a) a division is in progress, the division is to be completed and the result announced;

(b) the House is in Committee of the Whole, the Chairman must leave the Chair, report progress and seek leave to sit again.

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4. When any business under discussion, if not disposed of, is interrupted under this Sessional Order, the debate is to stand adjourned and be made an Order of the Day for the next sitting day at the end of Government or General Business, as the case may be fixed for that day, but so as not to preclude the operation of Standing Order 67, unless a motion is moved without amendment or debate for the adjournment of the debate to a day to be stated.

Questions on Notice

The Hon. M. R. EGAN: I seek leave to amend notice of motion No. 11, about which I have given notice.

Leave granted.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [5.03]: I move:

That, during the present Session and notwithstanding anything contained in the Standing Orders, the procedure in relation to Questions on Notice is varied, as follows:

1. Notices of Questions, signed by a Member, must be handed to one of the Clerks at the Table during the sitting of the House.
2. The Clerk is to publish in a Questions and Answers Paper, printed and circulated to Members, Notices of Questions in the order in which they are received.
3. The reply to a Question on Notice is to be delivered to the Clerk and is to be published in the Questions and Answers Paper.
4. Ministers must lodge answers to Questions on Notice within 35 calendar days after the question is first published.
5. If an answer to a Question on Notice is not received within 35 calendar days, the President is to inform the House on the next sitting day the details of any Question not answered. The relevant Minister must immediately explain to the House the reason for non-compliance.
6. If, after explanation in the House, the Minister has not submitted an answer within 3 sittings days, the President is to again inform the House and the Minister will again be called to explain. This procedure is to continue until a written answer is submitted.
7. During any adjournment of the House, replies to Questions on Notice may be delivered to the Clerk.
8. A Questions and Answers paper is to be printed and circulated on any prorogation of the House.

As with the previous sessional order that I moved, I hope this is an indication of the Government's bona fides in respecting the rights of members. The previous motion was to extend the adjournment debate by half an hour, and this motion will ensure that members actually get answers to their questions - something I was not used to. The Government intends to make sure under the sessional orders that all members get answers to the questions they ask; they are entitled to that. The Government also wants to ensure that members generally have their rights respected by the Government in this House.

Motion agreed to.

Matters of Public Interest

The Hon. M. R. EGAN: I seek leave to amend notice of motion No. 14, about which I have given notice.

Leave granted.

Motion by the Hon. M. R. Egan agreed to:

That during the present session and unless otherwise ordered:

1. A Member may give Notice of a Motion, for a day to be stated "That the following important matter of public interest be discussed forthwith (stating the matter to be discussed)".

2. On the day proposed for moving the Motion it is to be called on immediately before the House proceeds to the consideration of business set down on the Notice Paper for that day, except business taking precedence under Standing Order 55 (Matters of Privilege).

3. When the Motion has been moved, the Question is to be decided without amendment or debate except a statement by the mover and a statement by a Minister not exceeding 10 minutes each.

4. If the Question is agreed to, discussion of the matter may proceed for one and a half hours on the same or subsequent sitting days, except the reply of the mover.

5. The speech of:

(a) the Member moving the motion;

(b) the Minister first speaking;

(c) the Leader of the Opposition, or a person nominated by the Leader, first speaking when the Motion has been moved by a Member of the Government,

must not exceed 15 minutes each. The speech of any other Member or the proposer in reply must not exceed 10 minutes each.

6. When discussion of a matter of public interest is adjourned to a subsequent sitting day the Order of the Day for resumption is to take precedence of all other business on the Notice Paper for that sitting day, except business taking precedence under Standing Order 55 (Matters of Privilege).

7. More than one Notice of Motion may be given for any one sitting day, although only one motion on a Matter of Public Interest may proceed on any one sitting day. The House will consider the question of urgency on the motions for which notice has been given in the order in which they appear on the Notice Paper.

8. A Notice of Motion for a Matter of Public Interest not reached on the day set down for consideration, will be set down on the Notice Paper for the next sitting day, with precedence of all other Notices of Motions for Matters of Public Interest not specifically set down for that day.

9. The resumption of an adjourned discussion and one new matter may be dealt with on the same day.

10. Matters of Public Interest will only be considered on days on which Government Business has precedence.

STANDING COMMITTEES

Suspension of certain standing orders, as a matter of necessity, agreed to.

Motion, by leave, by the Hon. M. R. Egan agreed to:

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(1) Standing Committee on Law and Justice, Standing Committee on Social Issues, Standing Committee on State Development

1. That three Standing Committees reflecting the distribution of Government Ministers' portfolio responsibilities, as indicated below, be appointed:

(a) Law and Justice Committee

Legal, Constitutional and Law Enforcement
Corrective Services
Emergency Services

(b) Social Issues Committee

Aboriginal, Ethnic Affairs, the Aged and Disability Services
Health, Education and Training
Women and Consumer Affairs
Arts and Community Services
Housing and Urban Affairs
Sports and Recreation
Gaming and Racing

(c) State Development Committee

Economic and Financial Development
Industrial Relations and Employment
Public Administration
Local Government
Natural Resources and Energy
Regional Development, Agriculture and Small Business
Environment, Land and Water Conservation
Public Works, Transport and Infrastructure
Tourism and the Olympics.

2. The functions of the Law and Justice Committee are, where required or permitted by this resolution, to inquire into, consider and report to the Legislative Council from time to time on:

- (a) matters concerned with legal and constitutional issues including law reform, family law, parliamentary matters, criminal law and administrative law;
- (b) issues arising in connection with the New South Wales criminal justice system, including matters concerned with the Attorney General, justice, police and corrective services; and
- (c) state emergency services.

3. The functions of the Social Issues Committee are, where required or permitted by this resolution, to inquire into, consider and report to the Legislative Council from time to time on:

- (a) any proposal, matter or thing concerned with the social development of the people in all areas of New South Wales;

(b) the equality of access to the services and benefits including health, education, housing and disability services provided by the government and non-government sector to the people in all areas of New South Wales;

(c) recreation, gaming, racing and sporting matters; and

(d) the role of government in promoting community services and the welfare of the people in all areas of New South Wales.

4. The functions of the State Development Committee are, where required or permitted by this resolution, to inquire into, consider and report to the Legislative Council from time to time on:

(a) options for future policy directions and emerging issues to ensure that opportunities for sound growth and wise development for the benefit of the people in all areas of New South Wales are pursued;

(b) any proposal, matter or thing concerned with economics and finances, resources and energy, transportation, tourism, public administration, local government, the Olympics, primary industry, industrial and technological developments and environmental issues in New South Wales;

(c) employment practices, issues and conditions; and

(d) any proposal, matter or thing concerned with the problems or disadvantages uniquely or predominantly experienced in country areas, including the viability of cities and towns in those areas.

5. The Law and Justice Committee is to consist of 7 members, of whom:

(a) 4 must be Government members; and

(b) 3 must be non-Government members.

6. The Social Issues Committee is to consist of 7 members, of whom:

(a) 4 must be Government members; and

(b) 3 must be non-Government members.

7. The State Development Committee is to consist of 7 members, of whom:

(a) 4 must be Government members; and

(b) 3 must be non-Government members.

8. The Standing Committees are to comprise the following members:

(a) Law and Justice - Ms Burnswoods, Mr Macdonald, Revd Mr Nile, Mr O'Grady, Mrs Sham-Ho, Mr Ryan and Mr Vaughan;

(b) Social Issues Committee - Dr Goldsmith, Mrs Isaksen, Mr Kaldis, Ms Kirkby, Mr Moppett, Ms Saffin and Mrs Symonds; and

(c) State Development Committee - Mr Cohen, Miss Gardiner, Mr Johnson, Mr Obeid, Dr Pezzutti, Ms Saffin and Ms Staunton.

9. The quorum of a Standing Committee is three members, of whom two must be Government members.

10. If a member fails to attend 4 consecutive meetings of a Standing Committee without leave of the Committee, the absence is to be reported to the House.

11.(1) A Standing Committee has power to appoint sub-committees consisting of three or more of its members:

(a) to assist the Committee in the exercise of any of its functions; or

(b) to investigate and report upon any matter referred to the Committee.

(2) The Committee is to appoint one of its members to act as Chairman of any sub-committee and the member appointed has a deliberative vote and, in the event of an equality of votes, a casting vote.

(3) The quorum of a sub-committee is a majority of the members appointed to the sub-committee.

(4) A sub-committee is to report to the Committee on any matter referred to it by the Committee. The Committee may:

(a) adopt the report;

(b) reject the report; or

(c) adopt the report with variations.

(5) A sub-committee is to conduct its meetings and business in the same manner as the Committee appointing it.

12.(1) The Leader of the Government is to nominate in writing to the Clerk of the Parliaments, the Chairman of each Standing Committee.

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(2) The Leader of the Opposition is to nominate the Deputy Chairman of each Standing Committee.

(3) The member nominated as Deputy Chairman is to act as Chairman when the Chairman is absent from a meeting.

(4) In the absence of both the Chairman and Deputy Chairman from a meeting of a Standing Committee, a member of the Committee is to be elected by the members present to act as Chairman for that meeting of the Committee.

(5) The Chairman, Deputy Chairman or other member acting as Chairman at a meeting of a Committee has a deliberative vote and, in the event of an equality of votes a casting vote.

13. The Chairmen of the Standing Committees may report to the President on any matters relating to the functioning and operation of the Standing Committees.

14. Except as provided in this resolution, a Standing Committee:

(a) is to inquire into, consider and report to the House on any proposal, matter or thing relevant to the functions of the Committee which is referred to the Committee

(i) by resolution of the House; or

(ii) by a Minister of the Crown; and

(b) may inquire into and report to the House on any annual report or petition relevant to the functions of the Committee which is referred to the Committee under paragraph 15.

15.(1) All annual reports and petitions laid upon the Table of the Legislative Council shall, without any question being put, stand referred to the Standing Committees for consideration and, if necessary, report thereon.

(2) The Clerk of the Parliaments shall transmit a copy of each annual report and petition to the Standing Committee deemed

appropriate by the President.

16. The priority to be accorded to a reference received by a Standing Committee may be determined by the Chairman of the Committee.

17. A Standing Committee or any sub-committee has power:

- (a) to send for and examine persons, papers, records and things;
- (b) to adjourn from place to place; and
- (c) to make visits of inspection within Australia and, with the approval of the President, outside Australia.

18.(1) A Standing Committee, with the approval of the President is to be provided with such finance, staff, facilities and resources (including specialist consultants) as may be necessary to enable it to carry out its functions.

(2) A Standing Committee may, with the consent of the appropriate Minister, make use of the services of any staff or facilities of a government department, administrative office or public body.

19. Any person or body may make written submissions to a Standing Committee with respect to any inquiry being conducted by the Committee.

20. A Standing Committee is to take all evidence in public, unless a Committee otherwise decides.

21. Unless a Standing Committee otherwise decides, a person or body is not entitled or permitted to be represented by counsel or a solicitor at a hearing of the Standing Committee.

22. A Standing Committee has power to request the attendance of and examine members of the House.

23. Unless a Standing Committee otherwise decides, a member of the House who is not a member of the relevant Committee may take part in the public proceedings of a Committee and question witnesses but may not vote, move any motion or be counted for the purpose of any quorum or division.

24. A Standing Committee or any sub-committee may:

- (a) join together with any other Standing or Select Committee of the House or the Legislative Assembly to take evidence, deliberate and make joint reports on matters of mutual concern; and
- (b) meet with any other State or Commonwealth parliamentary committees to inquire into matters of mutual concern.

25.(1) A Standing Committee has power to publish, before presentation to the House, submissions received and evidence taken in public.

(2) A Standing Committee may:

(a) make available to any member of the public a copy of:

- * any written submissions made to it;
- * the report of any inquiry carried out by it; or
- * the record of any evidence taken in public; and

(b) charge a reasonable sum for making copies available; and

(c) a copy of all evidence taken in public by a Standing Committee is to be placed in the Parliamentary Library.

26.(1) A Standing Committee has leave to report to the House from time to time its proceedings, evidence taken in public, and recommendations as it deems fit.

(2) A Standing Committee may include in any report made to the House a draft Bill to give effect to such of the recommendations of the Committee which cannot be given effect except by an Act.

(3) For the purposes of preparing a draft Bill for incorporation in a report to the House a Standing Committee may, with the consent of the relevant Minister, make use of the services of any staff of the Parliamentary Counsel's Office.

(4) A Standing Committee may publish discussion papers for the purpose of any inquiry.

27. One or more members of a Standing Committee may append to a report of the Committee made to the House a statement of dissent in relation to any part of the report.

28. The report of a Standing Committee is to be tabled in the House within 10 calendar days of the report being adopted by the Committee.

29.(1) On tabling of a report from a Standing Committee a motion may be moved without notice "That the House take note of the report".

(2) At the conclusion of the speech of the mover, the debate is to be adjourned to the next Wednesday. The Order of the Day for the resumption of the debate is to take precedence after Question Time.

(3) Unless otherwise ordered, the Order of the Day for the resumption of debates on Committee reports is to be set down on the Notice Paper in the order in which the reports were presented.

(4) The debate on Committee reports on any Wednesday on which the debate has precedence after Question Time is to be interrupted after 1 hour. The interrupted debate is to stand adjourned and be set down on the Business Paper for the next Wednesday on which it has precedence after Question Time.

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30.(1) If the House is not sitting when a Committee wishes to report to the House, the Committee is to present copies of its report to the Clerk of the House.

(2) A report presented to the Clerk is:

(a) on presentation, and for all purposes, deemed to have been laid before the House;

(b) to be printed by authority of the Clerk;

(c) for all purposes, deemed to be a document published by order or under the authority of the House; and

(d) to be recorded in the Minutes of the Proceedings of the House.

31.(1) On the tabling of a report from a Standing Committee, which recommends that action be taken by the Government:

(a) the Clerk of the House is to refer the report to the Leader of the Government in the House who must within 6 months of a report being tabled, report to the House what action, if any, the Government proposes to take in relation to the recommendations of the Committee.

(b) if, at the time at which the Government seeks to report to the House, the House is not sitting, a Minister may present the response to the Clerk of the House.

(2) A response presented to the Clerk is:

(a) on presentation, and for all purposes, deemed to have been laid before the House;

(b) to be printed by authority of the Clerk;

(c) for all purposes, deemed to be a document published by order or under the authority of the House; and

(d) to be recorded in the Minutes of the Proceedings of the House.

32. A Standing Committee or any sub-committee must not sit while the House is sitting, unless the House otherwise orders.

33. A Standing Committee is to prepare an annual report of its operations for each financial year for presentation to the President.

34. The Clerk of the House is to fix the time and place for the first meeting of each Standing Committee in such a manner as the Clerk thinks fit.

35. The above provisions have effect notwithstanding anything to the contrary in the Standing Orders.

(2) Standing Committee on Parliamentary Privilege and Ethics

1. That a Standing Committee on Parliamentary Privilege and Ethics (referred to as "the Committee") be appointed to consider and report upon any matters relating to privilege which may be referred to it by the House or the President.

2. That the Committee have leave to sit during the sittings or any adjournment of the House, and have power to take evidence and send for persons and papers.

3. That the Committee have power to confer with any similar Committee appointed by the Legislative Assembly.

4. That, notwithstanding anything to the contrary in the Standing Orders, the Committee consist of the following Members: Dr Burgmann, Ms Gardiner, Mr Johnson, Mr Jones, Mr Manson, Mrs Sham-Ho and Mr Vaughan.

5. That, notwithstanding anything contained in the Standing Orders, a matter of privilege may only be brought before the House as follows:

(a) A Member desiring to raise a matter of privilege must inform the President of the details in writing.

(b) The President must consider the matter as soon as practicable and decide whether a motion relating to the matter is to take precedence under the Standing Orders. The President must notify his decision in writing to the Member.

(c) While a matter is being considered by the President, a Member must not take any action or refer to the matter in the House.

(d) If the President decides that a motion relating to a matter of privilege may take precedence, the Member may, at any time when there is no business before the House, give notice of a motion to refer the matter to the Committee. The notice must take precedence under Standing Order 55 on the day stated in the notice.

(e) If the President decides that the matter should not take precedence, a Member is not prevented from referring to the matter in the House or taking action in accordance with the practices and procedures of the House.

(f) If notice of a motion is given under paragraph 5(d), but the House is not expected to meet within one week after the day on which the notice is given, the motion may be moved at a later hour of the sitting as determined by the President.

6. That should the House stand adjourned and the Committee agree to any report before the House resume sitting:

- (a) the Committee have leave to send any such report, minutes and evidence taken before it to the Clerk of the Parliaments;
- (b) the documents be printed and published and the Clerk forthwith take such action as is necessary to give effect to the order of the House; and
- (c) the documents be laid on the Table of the House at its next sitting.

7. That the Committee is the designated Committee for the purposes of section 72B of the Independent Commission Against Corruption Act 1988, relating to Parliamentary Ethical Standards.

(3) References to the Standing Committee on Social Issues

1. That the Standing Committee on Social Issues is to inquire into and report on the following matters referred to the Committee in the previous Parliament and not disposed of:

- (a) Inquiry into Youth Violence; and
- (b) Inquiry into the Incidence of Sexual Offences: Part II: Emerging Issues in the Area of Sexual Violence.

2. That in considering these references the respective Committees may review any evidence, submissions, documents and records of the previous Committee.

SUPERANNUATION ADMINISTRATION AMENDMENT BILL

Suspension of certain standing and sessional orders agreed to.

Bill introduced and read a first time.

Second Reading

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [5.10]: I move:

That this bill be now read a second time.

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The bill before the House seeks to clarify and affirm existing legislative provisions governing the operation of the New South Wales public sector superannuation schemes. It will also formalise scheme procedures for Commonwealth regulatory purposes. Honourable members will be aware of the number of omnibus superannuation bills that this Parliament has considered in recent years. These bills have contained a wide range of amendments to the various schemes operating across the public sector in New South Wales.

The need for these amendments has been brought about by the increasing complexity of superannuation in Australia today and, in particular, the extensive regulatory requirements of the Commonwealth Government's prudential regime. The bill before the House also arises from Commonwealth regulatory requirements. The proposed amendments will affirm the status of the State Authorities Superannuation Board's pooled fund as a single fund for the purposes of the Commonwealth requirements.

The State Authorities Superannuation Board has operated the various public sector superannuation

schemes in a pooled fund arrangement since 1988. The associated schemes within the fund are the State Superannuation Fund, the State authorities superannuation scheme, the police superannuation scheme and the basic benefit scheme. Organisation of the various schemes through a pooled fund enables significant administrative and operational efficiencies. It also means that only one return has to be lodged under the Commonwealth regulatory legislation, only one income tax return has to be submitted and there is full accessing of tax concessions available to the schemes.

The proposed amendments will confirm that the pooled fund satisfies the formal requirements of a superannuation fund under the Commonwealth prudential standards. This will be achieved by formalising in the legislation the practices followed by the State Authorities Superannuation Board since 1988 of operating the pooled fund as a single, common fund under which the associated public sector schemes are component subfunds. The existing legislative provisions under which the State Authorities Superannuation Board has operated were framed in 1987 under the Superannuation Administration Act 1987. The provisions therefore preceded the expansion of the Commonwealth controls in superannuation. The same provisions, however, continued to be used when the public sector schemes became subject to the Commonwealth regulatory legislation, and were reproduced in the Superannuation Administration Act 1991.

It is now considered that the legislative provisions should be updated and clarified to properly reflect the operational set-up which has been in place since 1988. There will be no change to the existing administrative arrangements for each of the component schemes. There are therefore no effects on scheme members from these proposals. The power for pooling of the funds has been with the State Authorities Superannuation Board since its establishment in 1988 as the trustee body responsible for the principal public sector superannuation schemes.

These amendments are aimed at reinforcing the existing provisions to ensure that the board's governing rules are fully consistent with the formal regulatory requirements of the Commonwealth. The pooled fund arrangements supported by this bill allow the State Authorities Superannuation Board to achieve major efficiencies in its financial and administrative operations. These efficiencies are to the benefit of all scheme members. I commend the bill to the House.

Debate adjourned on motion by the Hon. J. M. Samios.

DISABILITY SERVICES AMENDMENT (RESIDENTS' AMENITIES ACCOUNTS) BILL

Suspension of certain standing and sessional orders agreed to.

Bill introduced and read a first time.

Second Reading

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [5.17]: I move:

That this bill be now read a second time.

This is a small bill, but it deals with a difficult, unresolved matter that has been around for some years. I am delighted that in this first piece of legislation that I bring forward as Minister this matter can be addressed easily and decisively. More importantly, the passage of the bill will result in enhancing the opportunities available for people with disabilities in this State. The issue at hand is what to do with approximately \$1.4 million that has accumulated in certain trust accounts for residents in the larger residential centres for people with disabilities run by the Department of Community Services.

These trust funds have been frozen for a number of years because of legal technicalities and because the

previous administration seemed reluctant to adopt a legislative solution to these legal difficulties. Money in these trust accounts has accumulated over some 30 years. So that honourable members will understand how the situation has arisen, I will provide some background information for their consideration. Until July 1985 persons with developmental disabilities were accommodated in the same hospitals as those used for people with mental illnesses. In each of those hospitals a trust account was run for each patient, but the amounts in each of those accounts were invested in a common fund.

The interest earned on this common fund was not credited to the individual trust accounts, but was put into a patients' amenities account. The funds from these patients' amenities accounts were used to provide benefits on behalf of all the patients in that

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particular hospital. Examples of the way in which that money was used were the purchase of recreation and sporting equipment, the construction of swimming pools, organised holidays and outings, the purchase of educational equipment and the hire of buses for recreational outings.

The legal problem that arises is that whilst there was authority for this practice in respect of persons with a mental illness, it was doubtful whether there was adequate legal authority for this practice in respect of persons with a developmental disability. As a result of these doubts, when the responsibility for these centres for persons with disabilities was transferred to the Department of Community Services, the practice of crediting interest to amenities accounts immediately ceased. Responsibility for managing individual trust accounts and the funds accumulated in the amenities accounts was given to the Protective Commissioner.

In ceasing this practice a difficulty arose on how to disperse the funds that had been accumulated in the amenities accounts up until that time, as legal advice was that these were trust funds owned by the persons whose moneys generated the interest. No easy administrative solution appeared to be readily available. Attempts to identify who were the owners of those funds proved to be an accounting nightmare because of the poor state of the records kept over the 30 years, the movement of people in and out of the system, and the fact that some of the accumulated funds represented interest earned on the interest. There was also the difficulty of apportioning expenditure from these funds against the entitlements of individuals.

A number of ways of dealing with these accumulated moneys was investigated. In 1991 an amendment to the then Disability Services and Guardianship Act 1987 was considered as a way of dealing with the problem. However, there were very mixed reactions to the proposed formula for dealing with any claims for return of the moneys. The possibility of dealing with the moneys under the Dormant Funds Act 1942 was also explored, but it seems that these accounts could not be regarded as a fund within the meaning of that Act.

Another possibility was to approach the Supreme Court for a direction under section 63 of the Trustee Act 1925. Again, legal advice was that this would not provide an appropriate solution. This matter has remained unresolved for more than five years. Residents, family members and interested persons want action now; they are tired of waiting. The clear view of those concerned parties is that these moneys should be used for the benefit of people who are currently residents in the departmental centres or, if the centres have closed down, the funds should be used for the benefit of people either in other centres or for such of the residents who are now living in group homes.

The Government has decided that enough is enough. The time has come to deal with this issue in order to release these funds for the benefit of people with disabilities. It is my hope that everyone in this House will agree that linking the use of the funds with the Disabilities Services Act 1993 is the only sensible way to proceed. That Act lays down objects and principles, and applications of principles, which have had the full support of all parties. This bill provides a number of checks and balances to ensure that the funds in these various accounts are not wasted but, rather, that they will be used to increase the potential for residents in these centres to move to community living, wherever possible, and to be treated with the dignity and respect to which all citizens are entitled.

Under the proposals of the bill, as Minister I am obliged to consult with residents or their advocates in

developing proposals for the use of these funds. I give my assurance that I will be carefully scrutinising proposals that are put to me to ensure that the paramount concern of the Government is the best interests of residents. There is a commendable flexibility in the arrangements proposed in the bill so that proposals can be tailor-made to those residents concerned. Funds can either be used so that they are ultimately dissipated, or they can be invested to generate income for ongoing provision of amenities in addition to those normally provided. I cannot emphasise too strongly that as the moneys are not the Government's, but are moneys that belong to residents in these centres, they must be released so that this past injustice can be resolved. As Minister for Community Services, I am trustee of these funds and, like any trustee, I will be putting the interests of the beneficiaries ahead of my own interests.

The bill contains some necessary provisions to validate past actions of persons who have acted in good faith in the handling of these funds. Unless it can be shown that these persons have not acted in good faith, there will be no personal liability for them as a result of the unfortunate history surrounding the accumulation of these funds. It is my belief that all persons of goodwill will wish to associate themselves with this long overdue solution to a difficult matter. I commend the bill to the House. I table the explanatory notes to the bill for the information of honourable members.

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

EVIDENCE BILL

EVIDENCE (CONSEQUENTIAL AND OTHER PROVISIONS) BILL

EVIDENCE ON COMMISSION BILL

Suspension of certain standing and sessional orders agreed to.

Bills introduced and read a first time.

Second Reading

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [5.28]: I move:

That these bills be now read a second time.

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The Evidence Bill 1994 represents the culmination of a process of reviewing this State's law of evidence which has been under way, in the one form or another, for nearly 29 years. In June 1966 the then New South Wales Attorney General, the Hon. Sir Kenneth McCaw, QC, gave the New South Wales Law Reform Commission a reference to review the law of evidence as it applied in civil and criminal cases. Over four years the commission produced a number of reports and discussion papers on such diverse topics as the rule against hearsay, unsworn statements and the competence and compellability of witnesses.

In July 1979 the Commonwealth Government gave the Australian Law Reform Commission a reference on evidence which included consideration of the need for uniformity in this field. The Australian Law Reform Commission released 16 research papers on various evidence law topics, an interim report in 1985 and, in 1987, its final report on evidence with draft legislation. In June 1988 the New South Wales Law Reform Commission released its own evidence report in which it adopted, without amendment, the great bulk of the proposals of the Australian Law Reform Commission.

In 1991 the then Attorney General, the Hon. John Dowd, QC, introduced the Evidence Bill 1991 into the New South Wales Legislative Assembly for the purpose of exposing the bill for public consideration and

comment. The Commonwealth also introduced an evidence bill into the Federal Parliament during 1991. The Standing Committee of Attorneys-General gave in-principle support to substantially uniform evidence laws, based on the New South Wales and Commonwealth bills. In August 1993 the previous Government released a further exposure draft bill for the purpose of obtaining comments. More than 80 submissions were received in response to that draft.

The Commonwealth and the Government of New South Wales have since worked together to develop a uniform law. The Commonwealth Evidence Bill was introduced in the House of Representatives in December 1993 and represented a text which was agreed between New South Wales and the Commonwealth, taking account of comments made on the New South Wales exposure draft. The bill was referred to the Senate Standing Committee on Legal and Constitutional Affairs, which heard oral evidence and received written submissions from professional bodies and interested persons. Matters raised in the Senate committee's report were addressed after further detailed discussion between the Commonwealth and New South Wales. The Commonwealth bill was passed by both Houses in February this year and commenced its operation in Federal courts on 18 April 1995.

As members may appreciate from this history, the Evidence Bill 1995 and the companion Commonwealth Evidence Act 1995 are the result of extensive consultation and development, and the views of many interested parties have received detailed consideration. Although in striking the necessary balance of interests that not everyone can be fully satisfied, I feel confident that this bill represents a valuable reform of our laws of evidence. The Commonwealth and New South Wales bills are uniform, except where minor drafting variations and technical differences are required. Differences are identified by appropriate annotations to the texts. Where provisions appear in either the Commonwealth Act or the New South Wales bill which do not have a counterpart in the other, a blank has been left, ensuring consistent numbering of the clauses and sections.

I am particularly grateful for the personal efforts made by the Hon. Duncan Kerr, the Commonwealth Minister for Justice, to ensure that uniformity of the Commonwealth and New South Wales legislation was achieved. It is to be hoped that, at the end of the day, all Australian jurisdictions will take steps to adopt legislation which follows this model and is uniform in this field. The conclusion of both the New South Wales and Australian Law Reform Commissions was that reform is necessary in the law of evidence in this country, and this would come as no surprise to many in the community. In its 1987 report, the Australian Law Reform Commission observed:

... the law of evidence is badly in need of reform in all areas. The present law is the product of unsystematic statutory and judicial developments. It is a highly complex body of law which is arcane even to most legal practitioners. It contains traps and pitfalls which are likely to leave the unrepresented litigant baffled, frustrated and defeated. There are also many areas of uncertainty in the law of evidence - areas on which definitive law is yet to be pronounced by the courts. The need for reform is also demonstrated by what happens in practice: the complexities are ignored, oversimplified versions of the law are applied and judges try to discourage the use of its technicalities.

It is my opinion that reform of the law of evidence is an essential component of reforming the legal system. The current law of evidence is a significant cause of cost and delay in many proceedings. It is against this background that this Government has introduced the Evidence Bill. The overall purpose of the bill is to provide a modern and comprehensive statement of the law of evidence to be applied in this State's courts and in certain other legal and administrative proceedings. For this purpose it will replace the Evidence Act 1898 and the Evidence (Reproductions) Act 1967. Like the 1991 bill, this legislation is based largely on the recommendations of the Australian Law Reform Commission in its 1987 report, and the antecedents to that report. In particular, the policy framework established by the ALRC has continued to provide the guiding principles which have governed the reforms contained in the Evidence Bill. I will briefly discuss four of these principles.

Firstly, the primary role of the laws of evidence is to facilitate the fact finding task of the courts by enabling parties to produce the probative evidence available to them. Secondly, the different nature and objectives of the civil and criminal trial require that in criminal trials a more stringent approach should be

taken to the admission of evidence against an accused person. The balance between the prosecution and defence has been kept in mind at all times. A less detailed and more flexible approach should be taken to the admissibility of evidence in civil proceedings. Generally, subject to considerations of fairness and costs, the rules should permit a party to tender all of the relevant evidence it has.

Thirdly, the parties must be given, and feel they have had, a fair hearing. To enhance predictability, the rules should tend to minimise judicial discretion, particularly in the rules which govern the admissibility of evidence. Finally, consideration has been given at all times to the impact of change on the time and cost of litigation and on the time and cost of activities outside the court. In drafting the bill, clarity and simplicity have been a priority.

The legislation, in rewriting the law of evidence, has imposed organisation and structure on a miscellaneous collection of rules that have been developed on a case by case basis by the courts. It should be noted that, whilst the bill codifies many aspects of the law of evidence, it is not intended to operate as an exhaustive code. In this regard, express provision is made in the bill to preserve the operation of other Acts which make specific provision in relation to evidentiary matters.

The bill also specifies that, except in so far as the contrary intention appears in the bill, the principles and rules of common law and equity in relation to evidence will not be affected. However, because the bill is comprehensive, the scope for operation of these principles and rules will be extremely limited. The provisions of the bill deal with the rules in the order in which the issues would normally arise in a typical trial. It deals in order with the application of the Act, which I have already discussed, adducing evidence, the admissibility of evidence and matters of proof.

Chapter 2 of the bill, which deals with adducing evidence, is divided into three parts, dealing with witnesses, documents and other evidence. Clauses 12 and 13 of the bill provide that every person is presumed competent to give evidence unless the contrary is proved. The competency provisions have been drafted with the intent that as many people as possible should be competent witnesses, with the particular difficulties faced by children and people with intellectual disabilities firmly in mind.

The bill replicates the substance of the present Oaths Act provisions dealing with children's unsworn evidence but, importantly, it extends those provisions to any witness who is incapable of understanding that in giving evidence he or she is under an obligation to give truthful evidence. The competency provisions of the bill represent a significant advance on the present requirement that an adult witness understand the nature and consequences of an oath. Unsworn evidence is in no sense a lesser class of evidence.

Clause 12 also provides a general rule that every competent witness is also a compellable witness. Exceptions are provided for heads of state, members of Parliament, and judges and jurors in certain circumstances. A defendant is not competent to give evidence as a witness for the prosecution in a criminal trial. In this State, the spouse of an accused is not compellable as a witness for the prosecution except in relation to trials for certain specified offences such as domestic violence. In cases involving those offences, the spouse of the accused is a compellable witness for the prosecution but may seek exemption from the trial judge.

Clause 18 of the bill makes it clear that members of families of a defendant in a criminal proceeding are competent and compellable witnesses. However, such persons may object to giving evidence as a witness for the prosecution and, in certain circumstances, will not be required to give evidence. In this regard members of a family include spouses, de facto spouses, parents, natural and adoptive children and children living in the household of a de facto as though they are the children of the defendant. The approach which has been adopted in the bill offers the best means of ensuring the achievement of the underlying policy objectives of protection of the family unit and the avoidance of undue hardship to the witness.

Clause 20 permits comment by the judge on a failure by the defendant to give evidence in a criminal proceeding for an indictable offence. The comment must not suggest that the defendant failed to give evidence

because the defendant was guilty. The clause does not affect the high court's statement of the law, made in *Weissensteiner v the Queen*, on the use that may be made of a defendant's failure to give evidence. Clause 21 sets out the requirement that the sworn evidence of a witness must be on oath or affirmation. Clause 29(2) permits witnesses to give evidence in narrative form.

Clause 30 of the bill will ensure that witnesses who cannot speak or understand the standard English of the courtroom have a right to use an interpreter. It is my intention that this clause will guarantee a right to use an interpreter for all non-English speaking witnesses, including speakers of Aboriginal English. Fully accredited and trained interpreters should be used wherever they are available, but the legislation does not require accredited interpreters as they are invariably not available. The bill also provides a power to the court to control the conduct of proceedings, including the way in which witnesses are questioned. The court will have power to take a proactive role in ensuring that the evidence of non-English speaking witnesses is properly received.

Clause 33 preserves the present arrangement whereby police officers may give evidence in chief for the prosecution by reading a written statement. Clauses 37 to 39 govern the conduct of the examination in chief of witnesses, and set out rules restricting the use of leading questions to non-contentious matters, governing the cross-examination of unfavourable witnesses and limiting re-examination. The rules governing cross-examination contained in clauses 40 to 46 prohibit misleading and other improper questions and regulate the use of leading questions and the questioning of a witness about the prior inconsistent statements of that witness or other persons.

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One area in which the bill makes extensive changes is in relation to documentary evidence. At common law a party wishing to prove the content of a document must tender the original document unless it is shown that the document cannot be produced. This applies regardless of the importance of a document in the case in question and whether there is any genuine dispute about it. Even a party in possession of the document can object to the other party tendering secondary evidence of it where the tenderer did not make any formal request to have the original document made available.

Evidence is also required to authenticate any copy of the documents regardless of its importance, the obvious authenticity of the copy and whether there is any genuine need to have authenticating evidence. The application of common law rules has given rise to difficulties in proving the contents of writings contained in modern photocopies and microfilm. An attempt was made in the 1960s to enact uniform legislation to deal with modern techniques of reproducing documents. This legislation, regrettably, is so complex that few organisations have attempted to comply with it and, in any event, it has failed to keep pace with technological developments.

Bringing evidence law up to date with record keeping technology will mean potential savings to government, business and individuals of millions of dollars annually, more especially if substantially uniform national evidence laws are implemented. At present the rules for admission of documentary evidence vary from State to State. The original document rule, under which, generally, the contents of a document must be proved by production of the original, applies in all States, but with significant exceptions which differ from State to State. As a result, at present businesses operating throughout Australia find it prudent to maintain records in forms that would be admissible in all States and Territories. This means the retention of the most primitive form of record keeping - original paper records, instead of modern methods. The proposals will rationalise the common law and the existing legislation.

Part 2.2 of chapter 2 sets out the way in which documents can be proved. The part abolishes the original document rule which requires that the contents of documents be proved by production of the original document. It permits parties to use originals, copies, transcripts, computer print-outs, business extracts and official printed copies of public documents. There will now be no obstacle to presenting in evidence the output from fax machines, microfilm, photocopiers, or optical laser readers. The admission by another party about the contents

of the document may also be used. Other clauses provide for the proof of documents in foreign countries and for summaries of voluminous or complex documents.

Safeguards are provided in relation to the testing of documents and the means by which documents have been produced or kept. In addition, clause 147 facilitates the proof of documents produced in the course of business. The presumption is drafted sufficiently widely to cover reports based on a query of a database or a print-out from a document imaging system. Part 2.3 deals with views, demonstrations, experiments and inspections. The court may draw any reasonable inference from what it sees and hears at a view. To the extent that information stored in electronic form cannot be produced in documentary form, the bill will permit the evidence to be put before the court in the form of an exhibit or permit a viewing or demonstration to be held. The bill contains comprehensive rules to control the admissibility of evidence. The primary evidentiary rule in this regard contained in clause 56 is that if evidence is relevant in a proceeding it is admissible unless it is excluded by one of the exclusionary rules set out in the bill. Evidence that is not relevant is not admissible.

Relevant evidence is evidence which, if it were accepted, could rationally affect the assessment of the probability of the existence of a fact in issue. The legislation sets out other rules which will operate to exclude certain types of evidence in a case. The proposals build upon, but rationalise and reform, the existing law. They include general discretions to exclude evidence where its probative value is substantially outweighed by the danger that the evidence might be unfairly prejudicial to a party or misleading or a waste of time. The common law rule excluding hearsay evidence, and its exceptions, has been the object of repeated criticism for many years. The difficulties created by the common law are reflected in the vast body of differing legislation which has attempted to address such problems on an ad hoc basis. The bill retains a rule excluding hearsay evidence. This rule prevents the admission of evidence of a previous representation made by a person to prove the existence of a fact intended by the person to be asserted by the representation.

A significant change created by this rule is that an unintended implied assertion is not hearsay. For example, a child saying, when answering the phone, "Hello, Daddy," is not hearsay if it is led to prove it was the child's father who was the other party to the telephone conversation. The exceptions to the rule are divided into provisions relating to first-hand hearsay, that is, evidence given by a person who heard or saw the representation made by a person who had personal knowledge of the fact in question, and more remote hearsay. As to first-hand hearsay in civil proceedings, where the maker of the out-of-court statement is unavailable, first-hand hearsay should be admissible on the condition that notice of its intended introduction is given to the other parties. Where the maker of the statement is available, evidence should be admitted without calling the maker, notwithstanding the hearsay rule, if to do so would involve undue delay or expense or would not be reasonably practicable.

In this regard, courts will be invited to develop rules relating to the pretrial discovery and exchange of documents, with the power to exclude evidence offered in violation of those rules. Where the maker is or would be called as a witness, the hearsay

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evidence should be limited to that made at the time or shortly after the events referred to in it. In relation to criminal proceedings, hearsay evidence should not be admitted against an accused person unless it is the best evidence that is available and it can be shown to have reasonable guarantees of reliability. On the other hand, an accused should be allowed to lead hearsay when it is the best evidence the accused has available to assist his or her case. The rule should not operate to exclude such hearsay evidence when led by the accused if notice is given. Where the maker is available, he or she must be called, and only statements made at or shortly after the relevant events should be admitted.

As to more remote hearsay, specific categories of evidence should be admissible on the basis of their reliability or necessity, or on both grounds. Categories include government and commercial records, reputation as to family relationships and public rights, statements about feelings and health, certain telecommunications, commercial labels and tags and evidence in interlocutory proceedings. For example, the fact that certain goods bear a manufacturer's brand name will be admissible to prove they were manufactured by the manufacturer. The rules relating to hearsay evidence will be subject to the court's discretion to exclude evidence after weighing

up the probative value of the evidence against the disadvantages of receiving it. Clause 76 sets out the general rule that opinion evidence is not admissible to prove a fact asserted by the opinion. However, an opinion based on what a person saw, heard or otherwise noticed about a matter or event in order to obtain an account of the person's perception of the matter or event is admissible.

Also, a person with specialised knowledge based on training, study or experience may give evidence of his opinion if it is wholly or substantially based on that specialist knowledge. The common law rules known as the ultimate issue rule and the common knowledge rule are abolished. The present test, in criminal trials, for the admissibility of admissions and confessions by an accused person is whether the admission or confession was made voluntarily. An examination of the decided cases, however, reveals uncertainty as to whether this test is directed towards maximising the probability of the truth of the admission or confession, or whether it is directed to recognition of the right to silence and to ensuring compliance with the law and respect for civil liberties on the part of law enforcement agencies.

The bill addresses the primary objectives of the volunteering rule - maximising the probability of the truth of the admission and the preservation of the rights of the individual suspect - by providing in clause 84 that, to be admissible, an admission must not have been influenced by violent, oppressive, inhuman or degrading conduct. Clause 85 renders inadmissible in a criminal proceeding evidence of an admission made to police unless the circumstances in which the admission was made were such as to make it unlikely that the truth of the admission was adversely affected. Clause 86 requires records of interview to be signed or otherwise acknowledged by marking by the defendant. The bill also provides that no unfavourable inferences may be drawn from a defendant's failure to answer a question or respond to a representation during questioning by a police officer.

Clause 90 gives the court a discretion to refuse to admit prosecution evidence of an admission if it would be unfair to the accused, having regard to the circumstances in which the admission was made. Clause 92 abolishes the rule known as the rule in *Hollington v Hewthorn*, which held that evidence of a conviction was inadmissible in civil proceedings to prove the facts on which it was based. Part 3.6 provides for the admissibility of evidence relating to the conduct, reputation, character and tendency of parties and witnesses, which is relevant to a fact in issue. For example, evidence may be admitted to prove that a person has or had a tendency to act in a particular way if notice has been given and the evidence has significant probative value. Tendency and coincidence evidence is not admissible in criminal proceedings unless the probative value of such evidence substantially outweighs any prejudicial effect that it may have on the defendant.

Clause 102 provides that evidence that is relevant only to the credibility of a witness is not admissible, subject to a number of exceptions relating to cross-examination. Clause 110 permits in criminal proceedings a defendant to adduce evidence about his or her own good character. Clauses 114 and 115 set out exclusionary rules for visual identification evidence and picture identification evidence in a criminal proceeding. Clause 116 provides for the giving of warnings to the jury about the special need for caution before accepting identification evidence. Client-lawyer privilege is continued broadly along traditional lines. However, it is proposed that the communications to be protected must be made in the context of a professional relationship between the lawyer and client or between the client's lawyers.

In addition, protection is given to communications between the lawyer or the client and third parties which are made for the dominant purpose of obtaining or giving legal advice and assistance related to pending or anticipated litigation. Clause 127 protects clergy from being required to divulge religious confessions. Clause 128 provides a general rule that a court must not require a witness to give particular evidence if the witness objects that the evidence may tend to prove he or she has committed an offence or is liable to a civil penalty and the court is satisfied there are reasonable grounds for the objection. However, a witness may have to give self-incriminating testimony, despite the objection, in certain circumstances set out in the bill. If evidence is given in these circumstances the witness is to be given a certificate, giving the witness immunity from prosecution.

In the public interest, evidence of reasons for judicial decisions - matters of State and settlement

negotiations - is not to be adduced. For example, it is

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in the public interest not to disclose various aspects of the methods of police operation, as adducing such evidence would prejudice the prevention, investigation or prosecution of other offences and prejudice the proper functioning of the Government. As already mentioned, part 3.11 contains a range of discretions to exclude evidence. The court may exclude evidence if its probative value is substantially outweighed by the danger of it being unfairly prejudicial to a party, misleading or confusing, or might result in undue waste of time.

The court must exclude evidence in criminal proceedings if its probative value is outweighed by the danger of unfair prejudice to the accused. The court may exclude improperly or illegally obtained evidence, including evidence obtained by the police without first administering a caution in accordance with clause 139, which sets out the specific requirements for the cautioning of suspects. Chapter 4 deals with matters of proof. Clauses 140 and 141 set out the standards of proof in civil and criminal matters. Clauses 143 and 144 provide that it is unnecessary to adduce evidence about certain matters including matters of law and knowledge that is not reasonably open to question. Part 4.3 facilitates the proof of evidence produced by machines, documents produced in the course of business, documents attested by a justice of the peace, a lawyer or a public notary, the execution of documents, seals, documents more than 20 years old, and matters of official record. It also establishes certain rebuttable presumptions about the postage and receipt of postal articles, et cetera. Clause 164 abolishes any rules requiring some classes of evidence to be corroborated.

Clause 165 provides for judges to warn the jury about the unreliability of certain kinds of evidence, including hearsay evidence, evidence of admissions and evidence affected by the age or ill-health of the witness. Part 4.6 provides for certain procedural matters, including requests to produce documents or call witnesses, proof by affidavits, proof of foreign law, certificates of expert opinions, et cetera. Chapter 5 of the bill deals with miscellaneous matters, including the rights of parties to waive the rules of evidence and to make agreements as to facts. The introduction of this bill may be seen as the culmination, but also the continuation, of a 29-year development and consultation process. I have taken steps to implement a monitoring committee comprised of representatives of the judiciary and the legal profession to monitor the implementation of the legislation and to make recommendations to me if any problems are encountered.

However, given the great effort that has been put into ensuring uniformity with the Commonwealth, it is my firm intention that any such issues will be resolved in consultation with the Commonwealth to ensure continued uniformity. In closing I wish to make brief comments on the two bills which are cognate with the Evidence Bill. The first of these, the Evidence (Consequential and Other Provisions) Bill, will repeal the Evidence Act 1898 and the Evidence (Reproductions) Act 1967. In addition, it will make amendments to various other Acts which will be required as a consequence of the enactment of the Evidence Bill. It also makes an amendment to the Crimes Act 1900, making the tape-recording of admissions to police compulsory where an accused person is suspected of an indictable offence that may not be tried summarily without the defendant's consent.

The Police Service has already introduced a system for the electronic recording of interviews, implementing the 1986 report of the criminal law review division of the Attorney General's Department. That report set out four objectives for adopting an electronic recording system:

1. To provide the courts with a reliable account of statements made by persons accused of crime whilst in police custody.
2. To provide an objective means of resolving disputes about the conduct and substance of police interviews.
3. To deter and/or prevent the use of unfair practices by the police prior to, during, and after interviews.
4. To deter the making of unfair and false allegations of improper behaviour by police.

This bill implements one of the recommendations of that report by providing that any unreasonable failure to adhere to the system will result in the inadmissibility of the evidence. The courts are thereby enabled to

supervise the operation of the system. The Evidence on Commission Bill will introduce machinery for the examination of witnesses abroad and for the examination of witnesses outside New South Wales, but within Australia, for the purposes of proceedings in this State. It also makes provision for the examination of witnesses in New South Wales for the purpose of proceedings outside the State.

As outlined at the beginning of my speech, these bills represent the culmination of many years work by many talented individuals in this State and the Commonwealth. As will be appreciated by anyone who has read the various publications on this subject which have been released by both the Australian Law Reform Commission and the New South Wales Law Reform Commission, making changes in this area of the law requires a delicate balancing of the interests and needs of individuals, society, investigating authorities and the courts. It is my belief that the Evidence Bill represents the attainment of such a balance. I commend these bills to the House.

Debate adjourned on motion by the Hon. J. H. Jobling.

CORPORATIONS (NEW SOUTH WALES) AMENDMENT BILL

Suspension of certain standing and sessional orders agreed to.

Bill introduced and read a first time.

Second Reading

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [5.59]: I move:

That this bill be now read a second time.

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This bill amends the Corporations (New South Wales) Act 1990, which applies the Corporations Law in New South Wales and forms part of the national legislative scheme for the regulation of corporations, the securities industry and the futures industry. Other Acts in virtually the same terms as the Corporations (New South Wales) Act have been passed in each State and the Northern Territory. The object of these application Acts is to allow the Corporations Law to operate as a national law.

The national scheme is based on an agreement reached between the Commonwealth, the States and the Northern Territory at Alice Springs in June 1990. Consistent with the spirit of the agreement, each jurisdiction has maintained uniform or complementary national scheme laws. On 30 June 1994, with the agreement of all States and the Northern Territory, the Commonwealth Parliament passed the Corporations Law Amendment Bill. This legislation confers on lower courts in each State and Territory civil jurisdiction for corporate claims relating to debt recovery or monetary compensation up to the monetary limit of each court. However, effective jurisdiction can be conferred on lower courts only if complementary amendments are made to the corporations Acts of each State and Territory.

All States and Territories agreed to introduce legislation which complements the Commonwealth amendments. In New South Wales, the amendments are to be made by the Corporations (New South Wales) Bill. Under the former cooperative scheme for the regulation of companies, the district and local courts had jurisdiction over corporate matters up to their monetary limits. However, recent court decisions have indicated that matters arising under the Corporations Law could only be heard by superior courts. Concern has been expressed by the business community and the legal profession that legitimate actions will not be able to be brought under the Corporations Law because of the cost and delay in bringing actions before superior courts. These amendments will reduce the cost and delay of bringing small civil matters under the Corporations Law and will ensure that justice is available to the community at a reasonable cost. For very small claims, often the

filing fees alone would prevent the commencement of civil proceedings in a superior court. It is anticipated that these amendments will receive widespread support, and it is important that they receive the support of all members and be implemented as soon as possible.

The bill will also amend the definition of "officer". This amendment is consequential on the Commonwealth Corporate Law Reform Act 1992, which replaces the official management provisions relating to voluntary administration of bodies corporate. Finally, the bill provides for an amendment to section 75 of the Act, which enables the application of certain provisions of the Commonwealth Evidence Act 1995, which has replaced the Evidence Act 1902, and clarifies the powers of the Commonwealth Director of Public Prosecutions in relation to offences under the former cooperative scheme for companies and securities.

Debate adjourned on motion by the Hon. J. H. Jobling.

CRIMINAL PROCEDURE AMENDMENT (INDICTABLE OFFENCES) BILL

Suspension of certain standing and sessional orders agreed to.

Bill introduced and read a first time.

Second Reading

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [6.02]: I move:

That this bill be now read a second time.

The procedure regulating the summary disposition of indictable offences is set out in the Crimes Act at sections 476, 495, 496 and 496A. Section 476 provides for a large number of indictable offences to be dealt with summarily at the discretion of the magistrate in a Local Court with the consent of the defendant. Sections 495, 496 and 496A also provide for the summary disposition of certain indictable offences at the discretion of the magistrate without the consent of the defendant. By extending the advantages of summary hearing to the defendant and the Crown in this way, considerable savings result to the administration of justice as a whole. In addition, the stress that is occasioned to witnesses and the defendant by a jury trial is avoided and the matter is resolved at the earliest opportunity. The District Court is thereby left to preside over the prosecution of the more serious matters in the criminal calendar.

The history of section 476 is illustrative of the need for reform. Since its introduction in 1900, the scope of section 476 has been enlarged on a number of occasions on a piecemeal basis. In 1983 and 1987 certain property offences were added to section 476, largely as a result of increasing the value of the property which was the subject of the offences. Certain fraud offences committed by agents come within the operation of section 476 if the value of the property does not exceed \$15,000. Comparable offences committed by a company director are also within the operation of the section, regardless of the value of the property involved.

Similar inconsistencies arise with respect to offences against the person. The offence of malicious wounding is capable of summary disposition under section 476, whereas the offence of maliciously inflicting grievous bodily harm is not, despite both offences carrying a seven-year maximum penalty. There has never been an attempt to rationalise the inclusion of some offences and the exclusion of others, either by reference to maximum penalties or the value of the property involved in the commission of offences.

Magistrates continue to exercise the discretion to offer the defendant summary jurisdiction at varying stages in the course of the proceedings. The law presently allows for the exercise of the discretion both at the close of the prosecution case and at the close of the defendant's case. This uncertainty is compounded by the fact that summary jurisdiction may be offered and accepted at the close of the defendant's case only

to have the offer withdrawn as soon as the magistrate becomes aware of the defendant's criminal history. While

the exercise of the discretion requires a magistrate to have regard to the defendant's criminal history, it is also fundamental to the integrity of our criminal justice system that the trier of the facts not be privy to that information before arriving at a verdict so that undue prejudice does not flow to the defendant. The prosecution and the defendant are in a far better position to determine the appropriate jurisdiction. The bill recognises this fact by removing from the magistrate any discretion relating to the choice of jurisdiction.

A decision to commit the defendant for trial or sentence to the District Court has far-reaching consequences in terms of resources. For that reason alone, it is important to ensure that the resources of the District Court are being used effectively. In April 1992 a Bureau of Crime Statistics and Research study titled "Aspects of Demand for District Court Time" found that 78 per cent of all penalties imposed in 1991 in the District Court were less than two years imprisonment. This finding suggests that significant savings in District Court time would be achieved by increased use of summary jurisdiction for those offences which would not attract penalties of more than two years, regardless of the jurisdiction in which they are tried.

Accordingly, this bill provides for a presumption that certain offences carrying up to and including a 10-year maximum penalty will be dealt with summarily, unless either the prosecution or the defendant elects to have the matter heard on indictment. There are some exceptions to this presumption - namely, the offences of dangerous driving and culpable navigation where death is occasioned, and certain sexual offences. These offences are sufficiently serious to warrant the consideration of a higher court.

A number of sexual offences remain amenable to summary jurisdiction, as do a number of offences carrying a maximum penalty of 14 years. The inclusion of these offences is a product of the ad hoc approach of the past, and at this stage the Government does not propose to remove them. The Criminal Procedure Act 1986 will be amended to accommodate this new regime, rather than by way of an amendment to the Crimes Act 1900. This will assist in the ongoing reform of the criminal law by the separation of those provisions which are of a procedural nature only from those which define criminal offences.

I turn now to the major features of the bill. Proposed part 9A of the Criminal Procedure Act 1986 sets out the revised procedure for certain indictable offences to be dealt with summarily by a Local Court. Table one to the part lists those offences which shall be dealt with summarily unless the prosecuting authority or the person charged with the offence concerned elects to have the offence dealt with on indictment. Table two to the part lists those offences which shall be dealt with summarily unless the prosecuting authority elects to have the offence concerned dealt with on indictment. "Prosecuting authority" is defined in the Act as the Director of Public Prosecutions or other person responsible for the conduct of a prosecution.

The offences listed in table 1 to the part include all those offences presently within section 476 of the Crimes Act 1900, with the exception of offences relating to child prostitution and child pornography. Other offences carrying up to and including a 10-year maximum penalty are also included. As I have already said, the offences of dangerous driving and culpable navigation where death is occasioned and certain other sexual offences are excluded from table 1.

Whereas the existing monetary value of the property which is the subject of certain larceny offences, namely \$15,000, determines access to summary jurisdiction under section 476, this bill removes that limiting factor. Pursuant to table 1, larceny and certain other related offences may be disposed of summarily where the value of the property exceeds \$5,000. Larceny offences where the value of the property is less than \$5,000 are provided for in table 2 to the part. This will introduce greater flexibility in terms of either the prosecuting authority or the person charged making an election to have a larceny matter dealt with on indictment. It also removes the need for constant review of the appropriate monetary value of property involved in the commission of such offences.

Table 1 includes offences under Acts other than the Crimes Act 1900, such as the Bail Act 1978, the Justices Act 1902, the Oaths Act 1900, the Prisons Act 1952 and the Drug Misuse and Trafficking Act 1985. Table 2 to the part includes those offences presently in sections 495, 496 and 496A of the Crimes Act 1900 that may be disposed of summarily without the consent of the person charged. It also includes certain offences

under Acts other than the Crimes Act 1900, such as the Drug Misuse and Trafficking Act 1985, the Firearms Act 1989 and the Prohibited Weapons Act 1989.

A further significant feature of the bill is the inclusion of the offence of stalking under section 562AB of the Crimes Act in table 2. This will allow the offence to be dealt with in the District Court if the prosecution so elects, thereby giving effect to the maximum penalty of five years in appropriate cases. The Government regards stalking as a potentially serious offence which should not be restricted to summary disposition.

Clause 33H of the bill provides that information about the person's right to make an election and the consequences of not making an election be provided to the person both orally and in writing at the person's first appearance before a local court on a table 1 offence. The same law requires the prosecuting authority to serve or cause to be served on a person charged with a table 1 offence a copy of the brief of evidence and the person's criminal history, if any, within the time fixed by the local court. The time for service must in any event be prior to the time fixed by

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the local court for the making of an election. This provision ensures that a person appearing before a local court on a charge falling within table 1 is armed with all the material necessary to enable the person, or his or her legal advisers, to make an informed decision either to elect to have the matter dealt with on indictment or to decline to make an election.

Clause 33F of the bill provides that an election may be made after the time fixed by the court, but only with the leave of the court and if the court is satisfied that special circumstances exist. What constitutes special circumstances is to be left to the discretion of the courts. However, an election may not be made after the court has commenced taking evidence presented by the prosecution where the person has entered a plea of not guilty, nor may an election be made after the prosecution has tendered the facts of the offence where the person has entered a plea of guilty.

Clause 33G of the bill provides that an election may be withdrawn by the party who made the election, provided that the court has not commenced taking evidence tendered by the prosecution where the person has entered a plea of not guilty and provided that the court has not committed the person for sentence where the person has entered a plea of guilty. The maximum penalties that may presently be imposed by the local court where a matter is dealt with summarily remain the same. Clauses 33J and 33K prescribe those maximum penalties for table 1 and table 2 offences respectively.

The bill contains a large number of consequential amendments to other Acts which presently refer to proceedings under section 476 of the Crimes Act 1900. In summary, the bill provides for the disposal of a wider range of appropriate offences in the local courts and a consequent benefit in the more efficient allocation of resources in the District Court. The prosecution and, in the case of the table 1 offences, the person charged will be in a better position to determine whether or not the interests of justice will be served by an election to have the offence dealt with on indictment. This decision will be made at an earlier stage of the proceedings than is presently the case and will thereby save the expense associated with a full summary hearing which has been needlessly conducted when summary jurisdiction is ultimately refused. Accordingly, I commend the bill.

Debate adjourned on motion by the Hon. J. H. Jobling.

COAL INDUSTRY AMENDMENT BILL

Suspension of certain standing and sessional orders agreed to.

Bill introduced and read a first time.

Second Reading

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [6.17]: I move:

That this bill be now read a second time.

The Coal Industry Amendment Bill introduces important reforms to the arrangements for industrial relations in the coalmining industry in New South Wales. It complements the Federal Industrial Relations Legislation Amendment Act (No. 2) 1994 by providing for the abolition of the Coal Industry Tribunal and the transfer of its jurisdiction to the Australian Industrial Relations Commission. The new arrangements will bring the coalmining industry into the industrial relations mainstream, reflecting more appropriately modern conditions in this industry. As a background to the bill I will outline the case for abolition of the tribunal and then provide a brief description of the terms of the Federal Amendment Act. Finally, I will outline the provisions of the bill which is before this house today.

The Coal Industry Tribunal's powers and functions were established by complementary Commonwealth and State legislation which commenced in 1946. Each government undertook not to amend the legislation without the consent of the other. The tribunal was established at a time when the industry was predominantly New South Wales based, supplying the domestic economy and composed of underground mines. Special arrangements were seen as appropriate for the industrial regulation of what was seen as a vital area of the economy having the potential to disrupt the national economy in the period of post-war reconstruction.

However, circumstances have changed from those of 1946. The industry is more export oriented and is now highly mechanised with a predominance of open-cut mining. Moreover, the industry has failed to participate in the general decline in the level of disputation that has occurred in other industries. For example, according to the Australian Bureau of Statistics, over the five years up to December 1994, the level of industrial disputation in the coalmining industry was on average 4,489 working days lost per thousand employees, compared with an overall average of 167 for all industries.

A number of independent reviews have looked at industrial relations arrangements in the coalmining industry and have come to the view that there is no case for a separate tribunal devoted to that industry. It is clear that existing arrangements are no longer appropriate to a modern, export-focused industry. Last year, the Federal Government introduced legislation to abolish the tribunal and transfer its jurisdiction to the Australian Industrial Relations Commission. The relevant provisions were contained in the Industrial Relations Legislation Amendment Act (No. 2) 1994, which passed through the Commonwealth Parliament late last year. The Federal provisions envisage the enactment of complementary State legislation. They also require the written consent of the Governor of New South Wales before they can commence. Basically, the relevant provisions of the Federal amendment Act can be divided into two main areas. The Federal legislation provides for the on-going industrial regulation of the coalmining industry to be transferred to the Australian Industrial Relations Commission by utilising the trade

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and commerce power, rather than merely relying on the conciliation and arbitration power. However, the legislation also envisages possible complementary State legislation enabling the Federal commission to exercise powers and perform functions within areas of State legislative power.

In his second reading speech, the Federal Minister for Industrial Relations, the Hon. L. J. Brereton, indicated that in the event of complementary State legislation, the Commonwealth provision utilising the trade and commerce power would not be proclaimed. The trade and commerce power or, alternatively, State conferral of jurisdiction, is being used to avoid some of the procedural and legal problems that arise from the need to establish an interstate industrial dispute in the Federal jurisdiction. In addition, to avoid there being a lacuna when the new arrangements commence, the Federal legislation also includes transitional provisions designed to preserve awards and orders of the Coal Industry Tribunal as awards and orders of the Federal commission and to provide for matters pending before the tribunal to become matters pending before the Federal commission. The transitional arrangements would be based on use of the corporations power. However, the Federal legislation explicitly provides that the provisions utilising the corporations power will not apply in the event of complementary State legislation providing that tribunal awards are AIRC awards.

The bill which is before the House today closely follows the terms of the Federal amendment Act, and is intended to comply with the requirements of that Act in respect of the envisaged complementary legislation. The bill provides for the repeal of that part of the State Coal Industry Act which has dealt with the establishment of the Coal Industry Tribunal and local coal authorities. The bill inserts a new part 7A into the Coal Industry Act. Proposed new section 54B will enable the Federal commission to exercise powers over intrastate matters in the coalmining industry in New South Wales. It should overcome any need for the Federal commission to invoke the trade and commerce power in respect of ongoing industrial regulation of the industry. The bill also makes it clear that there will be some residual jurisdiction for State tribunals.

The bill inserts savings and transitional provisions into the Coal Industry Act, in terms envisaged by the Federal amendment Act. Existing awards and orders of the Coal Industry Tribunal which were made in reliance on State powers are to be treated as awards and orders of the Australian Industrial Relations Commission. Similarly, matters pending before the Coal Industry Tribunal or a local coal authority pursuant to State powers are to be treated as matters pending before the AIRC. The Government has consulted key industry parties and the Federal Government on the details of the bill. There is wide support for the objectives of the legislation and minor technical suggestions have been reflected in the version of the bill which is now being presented to this House. The Government is seeking progress of the bill through the Parliament so that it may commence on 1 July 1995 to meet the industry's expectations that the new arrangements for industrial regulation of the coalmining industry will be in place from that date. I commend the bill to the House.

Debate adjourned on motion by the Hon. J. H. Jobling

SENATE VACANCY

Message

The Deputy-President (The Hon D. J. Gay) reported the receipt of the following message from the Legislative Assembly:

Mr President

The Legislative Assembly having resolved to meet the Legislative Council for the purpose of sitting and voting together to choose a person to hold the place in the Senate rendered vacant by the resignation of Senator Stephen Loosley, requests the Legislative Council to name the place and hour for such meeting.

Legislative Assembly
24 May 1995

J. H. Murray
Speaker

Suspension of Standing Orders

Motion, by leave, by the Hon. J. W. Shaw agreed to:

That so much of the Standing Orders be suspended as would preclude the message from the Legislative Assembly relating to the joint sitting to fill a vacancy in the Senate being considered forthwith.

Motion

Motion by the Hon. J. W. Shaw agreed to:

That this House agrees to meet the Assembly for the purpose of sitting and voting together to choose a person to hold the place in the Senate rendered vacant by the resignation of Senator Stephen Loosley, in the Legislative Council Chamber, on Thursday 25 May 1995, at 3.30 p.m.

Message sent to the Legislative Assembly advising it of the resolution.

ADJOURNMENT

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [6.28]: I move:

That this House do now adjourn.

PORT HUNTER BULK WAREHOUSE COMPLEX

The Hon. J. H. JOBLING [6.28]: I draw the attention of honourable members to the completion of what I believe is a most exciting project in the Newcastle area. I am referring to the Port Hunter commodities bagging and bulk warehouse complex constructed on Kooragang Island by the Yarnteen Aboriginal and Torres Strait Islander Corporation. I have been involved in the development of this project from its initial concept stage in September 1992 to the purchase of a large parcel of land on Kooragang Island under freehold title from the Fahey

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Government, the completion of construction of the complex in October 1994 and, finally, the official opening this month. It is no mean feat to coordinate Federal and State bureaucrats as well as the Yarnteen Aboriginal and Torres Strait Islander Commission, which is based in Lismore, but gaining \$3.5 million for the complex made the task well worth undertaking. Tomorrow morning I shall be attending the official opening ceremony of the warehouse complex.

The complex is a commercial enterprise developed by the Yarnteen Aboriginal and Torrens Strait Islander Corporation to provide employment and training opportunities for its members in the Newcastle port area. In the initial stages the complex will employ some 40 people. The commitment of a small number of people involved in this innovative project should put the Yarnteen corporation on the road to financial independence. I am speaking of Mr Jim Wright, the general manager of Yarnteen, whom I have known for many years and whom I respect greatly. Jim has worked tirelessly for the benefit of Aboriginal people in his area, the Awabakal people, first with the Awabakal Aboriginal Co-operative and now with its spin-off, the Yarnteen Corporation. The corporation is dedicated to focusing on the economic and social advancement of Aboriginal communities in Newcastle, and in the Hunter area in general.

The warehouse complex has incorporated advanced technology and will capitalise on what is clearly a niche market with the provision of a rural grading and commodity bagging service close to the Newcastle wharves. It is a project which has been backed, supported and sought by many of the large grain handling companies which operate in the port of Newcastle. Extensive training programs have been conducted to provide Aboriginal workers with the expertise required to maintain a quality service to customers. Training has concentrated on establishing the protocols and total quality management principles required in the industry.

I reiterate to honourable members that the successful completion of Yarnteen's warehouse enterprise is a benchmark example of the cooperation between all tiers of Government - State, Federal and local - the Yarnteen Aboriginal Corporation and the Awabakal Aboriginal Cooperative. I am aware that the project is being expanded to a second stage, with a number of large corporations keen to assist. Without doubt, funding from this project will make viable a number of other projects and will show the rest of New South Wales that this is the way to go. The growth potential of the Newcastle port has long been established, and with the development of enterprises such as this I am sure the future of the Newcastle area will move from strength to strength. Without doubt the Yarnteen project will stand as a landmark to other groups. At the end of the day members of this venture will stand on their own feet and supply their own funding and training. In future they will employ not 40 but 80 or more people. I commend those involved in this project and I hope that honourable members who are in the Hunter area will take the opportunity to visit this project.

LEGAL AID COMMISSION COST ARRANGEMENTS

The Hon. ELISABETH KIRKBY [6.33]: Today I had a question prepared for the Attorney General about the recommendations in the November 1992 report by Robson-O'Connor entitled "Report into Certain Issues Relating to the Legal Aid Commission of New South Wales". I intended to ask the Attorney whether those recommendations were to be implemented and, in particular, whether time recording and costing has been introduced in the Legal Aid Commission of New South Wales. I wished to ask him also whether he agreed that time recording and costing was standard practice in the private sector legal profession. Finally, I wished to ask whether, if time recording had not yet been introduced into the Legal Aid Commission, the Attorney General would examine the recommendations of the report.

Following the practice of never asking a question unless you know the answer, I have been made aware that time recording and costing has not yet been introduced as recommended in the November 1992 Robson-O'Connor report. Therefore, that is long overdue. Without time recording and costing it is impossible to establish whether or not money is being wasted or used ineffectively to provide increased access to justice. In short, legal aid needs a performance indicator and this can only be done when services are measured accurately against resources. Evidently the head office litigation services area has introduced time recording, but not costing, on a trial basis. Everyone else in the legal profession - and architects also - keeps tabs on how much time is spent on jobs, otherwise they would not know how much to charge a client. According to my source, less and less is being done with more and more resources.

An argument in favour of changes in management is that one person decides whether or not legal aid is granted, whether it is handled in house or handled by lawyers externally, and who is appointed to handle the cases. Honourable members should be aware that the Commonwealth contributes 51 per cent of the overall \$85 million budget for legal aid; the State contributes only 20 per cent of the budget. Interest on funds from the Law Society of New South Wales provides 30 per cent of the budget. I was told also that the Solicitor General, Parliamentary Counsel, and others use time recording and time costing. Surely this practice should now be introduced in the Legal Aid Commission.

Over the past few days the Commonwealth has announced, with great fanfare, that access to justice will be improved. I assume, particularly in the lead-up to a Federal election, that this will be achieved by throwing money at the various legal aid commissions, including the New South Wales Legal Aid Commission. If this is to occur it is essential that accountability is also improved. Accountability practices should be brought into force before this funding increase takes place, otherwise the money may well be dissipated and not used to its best advantage.

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The Australian Democrats support accountability at all levels. We believe that all governments must be accountable to the people for the money they spend. Because of the crying need for legal aid, it is ridiculous to have a system without time recording and time costing. Money must be shared to meet the needs of the greatest number of people. I cannot understand why this simple recommendation, which we have known about for more than three years, has not been introduced. I call upon the Attorney General to introduce time recording and time costing as a priority for the New South Wales Legal Aid Commission.

AIDS VICTIM LORRAINE CIBILIC

The Hon. FRANCA ARENA [6.38]: I wish to bring to the attention of the House the passing away of an outstanding citizen of this State, Lorraine Cibilic, nee Salecich, who was born in Mareeba, Queensland, on 1 March 1945. Lorraine was well known to many members of this House from all political parties as she gave evidence to the Standing Committee on Social Issues inquiry on financial assistance to medically acquired AIDS victims. I met Lorraine about eight years ago at the Ethnic Affairs Commission of New South Wales at the

launch of a manual on health. She started to talk to me in a friendly manner and I took a liking to her immediately. She told me her story. She was an Australian of Croatian parents, her loving parents being Rose and Joe Salecich. In 1964 she married Tony and they had two children, Darren and Corinna.

In January 1982 there was a terrible car accident. Lorraine was driving the family to a picnic when their car was hit by a truck careering from the other side of the road. Her loved daughter was killed instantly. Lorraine was in hospital for months where she endured many operations and had many blood transfusions. Four years later she was told she was HIV positive. By the way, her doctor told her this terrible news over the phone, such was the sensitivity about HIV in those days. Lorraine then commenced a battle to assist others afflicted by the same AIDS tragedy. One must remember that at the time the plight of people who had medically acquired AIDS was not known at all. On the contrary, some people did not wish to hear their stories and would have liked those afflicted with this problem to go away.

I remember being on the first AIDS awareness parliamentary committee with many other parliamentarians from both Houses. While we were briefed at length about all aspects of AIDS, no-one ever told us anything about medically acquired AIDS, haemophiliacs and others. Lorraine spoke for these people; she wanted appropriate care for them. She asked for financial assistance and fought for this tooth and nail. She came to see me many times, she rang, she wrote, and she made submissions to the inquiry. She was never beaten and did not want any discrimination for any AIDS sufferer. However, she sought some acknowledgment of the suffering experienced by people who went to hospital for a medical procedure and came out with AIDS. A group was formed and Lorraine was its leading light. She was so strong, a natural leader. I remember Luigi, another sufferer now deceased, who used to say to me, "I keep going because of Lorraine. She is such an example to us all". She was truly an inspiration to us all.

Lorraine Cibilic was a wonderful and outstanding woman. She fought hard against this terrible illness and in the end she gave in, happy to be reunited with her daughter Corinna. I visited her in hospital a week before she died and she was as cheerful as always, thinking more of her family than herself. Professor Ron Penny, Professor Dwyer and all the nurses who came into contact with Lorraine all loved her and held her in great esteem for her courage and determination. Her funeral was attended by hundreds of people, which indicated the respect everyone had for her. Reverend the Hon. F. J. Nile, the Hon. Elaine Nile, the Hon. J. F. Ryan, the Hon. Dr Marlene Goldsmith and I attended her funeral.

I learned to love Lorraine as a sister. I am proud to have been her friend. My great regret is that my nomination for her to receive an Order of Australia did not arrive in time - she deserved such an honour. I place on record all my admiration and affection for Lorraine, and she was regarded that way by everyone who knew her. To her husband Tony, a gentle and loving man, to her beloved son Darren and to her beloved mother and father Rose and Joe Salecich, our deepest sympathy. Vale Lorraine Cibilic, you will always live in our hearts.

AUSTRALIAN LABOR PARTY CAMDEN ELECTORATE CAMPAIGN

The Hon. J. F. RYAN [6.43]: I draw a matter to the attention of the House which arose during the recent State election campaign. I wish to expose a con trick carried out by members of the Australian Labor Party in the electorate of Camden, which included two attempts to siphon preferences from potential independent voters by kick-starting a campaign for two phoney "Independents", including one standing on an unambiguously racist immigration platform.

The con trick worked as follows: senior ALP officials convinced at least two phoney independents to nominate for the electorate of Camden. One, a Dr Carolyn Allport, is a senior trade union official. I discovered that on the day that her nomination form was presented to the returning officer at Camden she was working in her full-time job at her desk in Melbourne! Dr Allport has been living and working in Melbourne since the end of last year following her election to the presidency of the National Tertiary Education Industry Union. I have no doubt that the only reason this candidate nominated for this electorate was to allow the Labor

Party to produce and distribute how-to-vote material which claimed to be from an Independent, but was in fact as good as a vote for Bob Carr from the unwitting voter who followed the ticket.

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The other candidate was a Jim Mackenzie, who described himself as a salesman on his nomination form. However, he is also well known in Campbelltown as a doorman at the local Catholic club. Somehow, this candidate, despite his need to work a second job, had the resources to print and distribute a direct mail letter to the 24,000 households of the Camden electorate. I table a photocopy of the envelope in which his letter was delivered. This makes an unambiguous plea for less Asian immigration in addition to support for other fairly right-wing policies, including the death penalty. He also had sufficient workers to staff every booth in the electorate on polling day and sufficient funds to cover a printed how-to-vote card.

The estimated cost of his campaign would have been at least \$10,000. This campaign successfully delivered over 500 preferences to the left wing Labor candidate in Camden, Peter Primrose. My evidence for linking this campaign with the ALP is as follows: Mr Mackenzie and Mr Primrose swapped their number 2 preferences with each other on election day. For a candidate who clearly had little chance of success, Mr Mackenzie spent a lot of money on election day. However, curiously, he was not interested in any free publicity offered to him repeatedly by the local media.

The PRESIDENT: Order! If the member wishes to table the document he must seek leave of the House to do so.

The Hon. J. F. RYAN: I seek leave to table the document.

Leave granted.

The Hon. J. F. RYAN: Mr Mackenzie declined every opportunity to comment in the press before the election, and he even refused to provide his photograph for publication. He lists his printer as B and A Offset Ltd, which operates from Bankstown, on his how-to-vote card, but this company does not have a shopfront to work from and cannot be found in the telephone book. The most common way of hiring this printer is by booking work with a printing business owned by a former left wing ALP member of Parliament, Mr Bill Lovelee, who then subcontracts work to B and A Offset. These are printers commonly used by the trade union movement. Mr Mackenzie had no contact with other candidates standing for election with similar platforms. The only beneficiary of his campaign was the Australian Labor Party.

Additionally, I report to the House an interesting conversation which took place between Senator John Tierney, a Liberal Senator, and the Federal member for Reid, Mr Laurie Ferguson. The conversation occurred in the Federal Parliament. After Mr Tierney asked a question on this matter in the Senate he spoke to the member for Reid outside the Chamber. Mr Ferguson told him, "The details of your question were wrong, but I can tell you that the events you described did happen. Members of the ALP attempted to assist this person in nominating and having his election material printed." I assure the ALP that this matter will not be allowed to rest. Along with Bob Carr's recent comments about immigration and Sydney's urban sprawl, this incident indicates that the ALP is not beyond using racist campaigns in order to attempt to win votes for itself. I promise the Labor Party that this is not the last to be heard of this extremely serious matter.

AIDS VICTIM LORRAINE CIBILIC

The Hon. ELAINE NILE [6.48]: I also pay tribute to a very dear and close friend, Lorraine Cibilic. *The Book of Esther*, 4:14, reads:

Who knoweth whether thou art come to the Kingdom for such a time as this.

It must have been 1987 that Reverend the Hon. F. J. Nile and I first met Lorraine Cibilic. Previously we had made contact with Lyndal Johns, another innocent AIDS victim, at a meeting where we had been speaking about AIDS. At that stage Lyndal, Lorraine and Danna-Lea Johnson had recently formed the Immune Deficiency Syndrome Innocently Acquired group. Much has happened since then - so much heartbreak and so much abuse.

Many hundreds of people have gone to their rest leaving behind grieving husbands, wives, parents, children and grandchildren. Those people have truly been the innocent victims in receiving contaminated blood given by homosexuals to the Red Cross. The contaminated blood was to be used for blood products such as haemophilia and blood transfusions. Lorraine was one of those victims, but this one would not have known; instead of feeling sorry for herself, she decided to fight. Her husband, Tony, and her son Darren stood with her at all times. It had to be a decision and action which was shared by the three.

In a car accident in January 1982 they lost their beloved 10-year-old daughter and sister Corinna. It was through the same accident that Lorraine acquired the poisonous blood. She described later that she had received "buckets of blood", but she did not find out until 1986 that she had AIDS. She was notified by a telephone call from a doctor. An article I read recently said that Lorraine did not divide people into categories. However, she knew she and her fellow sufferers were innocent, and she objected strongly to the filthy homosexual material that would be left on her desk at St Vincent's Private Hospital.

Lorraine also deplored the so-called dressed sisters of perpetual indulgence - homosexual men - visiting their friends in the hospital. She felt that this was an insult to the sisters in the hospital whose vocation was to nurse all victims of AIDS and show the love of Christ. In a recent telephone call she told me of a male homosexual sufferer who came from his bed in the hospital and talked with Lorraine on a number of occasions. The Lorraine we all loved was a counsellor. The Immune Deficiency Syndrome Innocently Acquired group were told by the Government that it had to remove the word innocent from its title or no help would be forthcoming. The word was removed.

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Lorraine and I could not go to Danna-Lea's funeral because Lyndal, Lorraine and I had been featured and photographed in a women's magazine, and the extended family believed that Danna-Lea's death had been caused by pneumonia. The day of Danna-Lea's funeral Lyndal, Lorraine and I had lunch at Parliament House and went into the corridors to find politicians to share this story. We sought help for fellow sufferers. All doors, including the Premier's, and the Minister for Health's, had been shut on them. One reply from a senior ALP man was, "It's a privilege to suffer for God." This upset Lorraine and Lyndal. Lorraine contacted him later and told him that if he would like that privilege of suffering for God, she would willingly give him a pint of her blood. She had a sense of humour. She had a shoulder upon which hundreds of her people lent, and she always had an ear that was ready to listen. She was truly God's comfort to so many people.

Lorraine sat in many courtrooms with families of sufferers who had sought compensation. These people had been refused legal aid, and Lorraine was always there. Sitting through the Legislative Council Standing Committee on Social Issues inquiry into medical and financial assistance for medically-acquired AIDS victims must have been stressful and draining for Lorraine. The AIDS Coalition To Unleash Power - ACT UP - homosexual group broke into the meeting and it was intimidating for her people.

Call to Australia finally introduced the Medically Acquired AIDS Victims Compensation Bill in cooperation with the legal firm Slater and Gordon. In view of our bill and successful court cases, the New South Wales Government finally agreed to give adequate - it said - compensation to the hundreds of suffering people. I rang Lorraine and she said to me, "Anything the Government gives now will be appreciated - however small." I think she was glad to see the end of it all. Lorraine said to me in December of 1994, "Darling, I'm going to make you a Christmas cake if I can." Over the years previously she had done this. I think we both knew there would be no Christmas cake.

Lorraine passed into the presence of her Heavenly Father on Tuesday night, 4 April 1995. Her funeral service was one of praise and thanksgiving. Lorraine had chosen the hymns and the *Bible* readings. Instead of floral tributes we made a love offering as requested to the particular section of the hospital where Lorraine spent so much of her life in the latter days. The reply from Sister Margaret Lee, RSC says in part, "As so often happens, the Minister is ministered to by the love, faith and courage of patients such as Lorraine." One of the *Bible* readings Lorraine chose was from Romans 14:7:

The life and death of each of us has its influence on others; if we live, we live for the Lord; and if we die, we die for the Lord, so that alive or dead we belong to the Lord. This explains why Christ both died and came to life, it was so that he might be Lord both of the dead and of the living. [*Time expired.*]

DEATH OF Mr TONY DOYLE, MP

The Hon. P. F. O'GRADY [6.53]: I first came across Tony Doyle as a young Labor delegate from Woy Woy branch - a quiet delegate. We shared a period on the Young Labor executive together. At that time Tony lived at Booker Bay with his cousin Tina and his grandmother. He was the only person from outside Sydney who was really involved in Young Labor. He was always a keen surfer and a lover of the water. When Keith O'Connell decided to retire it was expected that Tony would succeed him but at that time Paul Landa, a member of this House, wished to transfer to the lower House and Tony stood aside. However, due to the untimely death of a future Labor Premier, Tony Doyle took his seat in the Parliament of New South Wales.

Tony Doyle chose to make his maiden speech on the need for public housing, using the words of Tom Uren that "next to unemployment housing is the most serious social problem in Australia". He noted that in the electorate that he represented "in the main population centres the average personal income is approximately half the Australian average and about one third of the population is over 60". In closing he said, "My Liberal Party opponent was gracious enough to concede that the ALP at all times conducted an honourable campaign in Peats. I would like to be able to return that compliment. But with complete honesty my conscience prevents me from doing so." Scare campaigns and the division of the community for short-term political advantage were some of the things that Tony had to deal with on his way to Parliament.

Two colleagues in the lower House used a story which has become folk lore about a constituent ringing late one night to say that her cat was stuck up a tree and asking him to get it down. The story is not true but the sentiments it expresses are. Tony Doyle loved his electorate. He was loved by aged people and had a special relationship with his senior constituents. Projects such as the construction of a set of traffic lights at the corner of Woy Woy Road and the Pacific Highway were a hallmark of Tony's dedication in servicing his electorate.

Craig Knowles, in his contribution on Tony's death, said that Tony was a very private person and did not let the Parliament dominate his life. One thing that I learnt very early about Tony Doyle was his enjoyment of a beer. One of his favourite spots for drinking a beer was an open air bar in Singapore. It brought together two of his favourite pastimes - travel and relaxing quietly and privately with a beer and his friend. Tony always had a fascination with and love of planes.

When Tony got his first car, he and Tina would often go to Kingsford-Smith airport and look at the planes landing and taking off. He could name all the planes he had ever been on. As a member of Parliament Tony always engaged with his electorate. As a private citizen he liked nothing better than a bonfire with toasted marshmallows on the beach. The

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Parliament has lost a most decent human being. The determination with which Tony dealt with his disease is an example to us all. To Tony's friend Robert, his mother and father, his cousin Tina and his friends I offer my sympathy and hope that they emerge from this immensely difficult period as quickly as possible.

Clover Moore claims that she has an interest in debating the wider issues of HIV-AIDS discrimination. I agree that the issues of discrimination are great. One does not need to go beyond the New South Wales Anti-Discrimination Board report entitled "HIV: The Other Epidemic" to be reminded of the horrendous forms

of discrimination against HIV positive or presumed HIV positive people. Other documents which one can draw on include the national strategy document which has allowed Australia to be a world leader in combating and slowing the spread of AIDS.

Ms Moore, in her press statement of 22 May, declined to deal with the central issue of privacy. It is my fundamental belief that no-one has the right to use someone else's personal circumstances to further his or her own political goal, no matter how noble that goal. The principle of a right of an individual to privacy is paramount in that society when dealing with health care issues - even more so when dealing with HIV-AIDS. Someone may chose to be open about his personal issues but no-one else must make that choice for him.

Anne Deveson has written a book dealing with her son's schizophrenia, *Tell Me I Am Here*. It is most telling reading. It is her way of dealing with her grief and telling her story which needs to be told about mental illness. She stated, "Writing this book has meant reliving periods I would rather forget. We all remember them differently: we each experienced only our part." This is an example of a positive way of dealing with the discussion of illness. It is important that we put this sorry incident behind us.

Many individuals have put a great deal of effort into trying to deal with strategies for HIV. The knowledge and experience we have gained let us know that confidentiality is crucial in not forcing this disease underground. Privacy is the central issue. Privacy should not be breached. This affair serves as a reminder to us all that the privilege of being elected to Parliament demands a responsibility not to abuse power and to show leadership. In conclusion, I read the final paragraph from *Tell Me I am Here*:

For too long, mental illness has been kept in the shadows. Instead of rejection, we need acceptance. Instead of shame, we need love. Instead of despair, we need solid and unwavering support. It is time to come out of the shadows and into the light.

Those words can be applied to many illnesses: HIV is one.

Motion agreed to.

House adjourned at 6.58 p.m.
