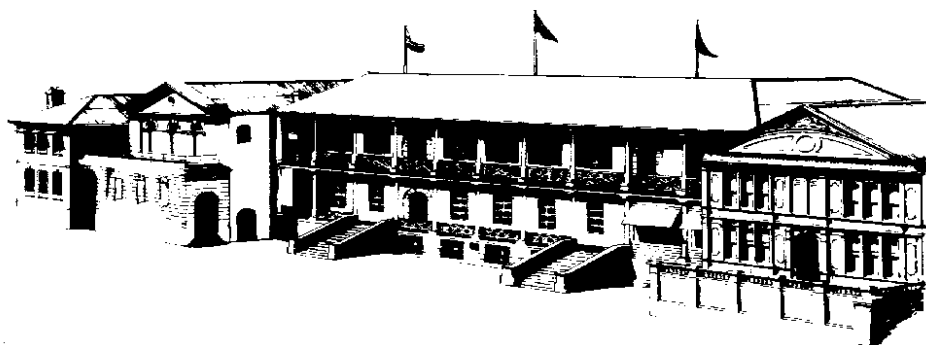




**NEW SOUTH WALES**



*Legislative Council*

**PARLIAMENTARY  
DEBATES**

**(HANSARD)**

**FIFTY-FIRST PARLIAMENT  
THIRD SESSION**

**OFFICIAL HANSARD**

**Thursday, 17 September 1998**

# LEGISLATIVE COUNCIL

Thursday, 17 September 1998

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**The President (The Hon. Virginia Chadwick)** took the chair at 11.00 a.m.

**The President** offered the Prayers.

## PARLIAMENTARY PRECINCTS POLICING

**The PRESIDENT:** I wish to update members on the outcome of discussions that have taken place between the Commissioner of Police and the Presiding Officers since the commencement of the Parliamentary Precincts Act 1997 on 10 July 1997. Under section 27 of the Act a memorandum of understanding may be entered into between the Commissioner of Police and the Presiding Officers "regarding the exercise by police officers of functions (under this Act or otherwise) in the Parliamentary precincts or the Parliamentary zone or both". After negotiations between Police Service solicitors and the Parliament, a memorandum was signed by the commissioner and the Presiding Officers on 23 June 1998.

The intention of the memorandum is to set out in clear terms the important aspects of the legislation and some additional matters in order to clarify the respective roles of the authorised officers of the Parliament and the police. The memorandum is in three parts. Part 1 contains background information about what is in the Act, such as what the parliamentary precincts and zone are, who are authorised officers and what they can do, and the provisions relating to directions and the removal of persons from the precincts and the zone. There is then a section specifically on the role of the police, and the authorised officers, under the Act. It should be noted that neither authorised officers nor the police have power to give directions to members of Parliament.

Part 2 of the document contains the actual memorandum. There are agreed protocols for when police are called to Parliament House. The most important provisions are: that police are exempted from the protocol if they are in pursuit of persons into the zone or precincts; that the Parliament can require an urgent or non-urgent response from police; that police attending are able to enter with their appointments, including firearms; that police

will take control of any situation when called out until they relinquish that control back to Parliament House; and that there are certain restrictions on police in carrying out investigations, executing process, and interviewing, holding in custody or arresting members or staff within the precincts. Members should be aware that, although police can carry firearms within the precincts in emergency situations, by longstanding practice they voluntarily hand firearms into the Parliament's custody while they are in the building.

Part 3 comprises attachments such as copies of the deposited plans for the parliamentary precincts and the zone, any resolutions of the Houses in respect of the parliamentary zone, and any agreements entered into between Parliament House and its neighbours the State Library and Sydney Hospital. Since the Parliamentary Precincts Act was passed, another issue that has been required to be addressed is whether the provisions of the recently-passed Security Industry Act 1997 applied to Parliament House. An opinion from the Crown Solicitor indicates that the Security Industry Act does not fetter the ability of the Presiding Officers to administer the security of the parliamentary precincts. The Crown Solicitor says:

Those who would assert the Security Industry Act has derogated from what I consider to be a broad power conferred by the Parliamentary Precincts Act to carry out "security activities" in the Parliamentary precincts must demonstrate an intention in that later general act to do so. I am unable to find an intention in the Security Industry Act to subject to the licensing and liability regime of the Security Industry Act the powers conferred by the Parliamentary Precincts Act in relation to the Parliamentary precincts and the exemption from liability.

I will send a copy of the memorandum of understanding to every member of the House so that they can become familiar with its provisions.

## TEMPORARY CHAIRMAN OF COMMITTEES

**The PRESIDENT:** According to Standing Order 7(c) and the resolution of the House of 17 September 1997, I nominate the Hon. Dr Brian Patrick Victor Pezzutti to act as Temporary Chairman of Committees during the remainder of the present session, in the place of the Hon. Elisabeth Kirkby, resigned.

## PETITIONS

### Family Impact Commission Bill

Petition praying that the integrity of the family unit be encouraged by support for the Family Impact Commission Bill, received from **Reverend the Hon. F. J. Nile**.

### Olympic Torch across Kokoda Track

Petition praying that the Olympic Torch will be carried across the Kokoda Track on the journey to Sydney for the Olympic Games in 2000, received from the **Hon. C. J. S. Lynn**.

## ALCOHOLIC BEVERAGES ADVERTISING PROHIBITION BILL

### Postponement

**Motion by Reverend the Hon. F. J. Nile negatived:**

That general business order of the day No. 1 be postponed until Thursday, 22 October.

### Second Reading

**Debate resumed from 4 June.**

**Reverend the Hon. F. J. NILE** [11.10 a.m.]: I move:

That this debate be now adjourned until the next sitting day.

**The House divided.**

### Ayes, 8

Mrs Arena	Mr Tingle
Mr Cohen	
Mr Corbett	<i>Tellers,</i>
Mrs Nile	Dr Chesterfield-Evans
Mrs Sham-Ho	Rev. Nile

### Noes, 26

Mr Bull	Mr Moppett
Dr Burgmann	Mr Obeid
Ms Burnswoods	Dr Pezzutti
Mr Dyer	Mr Primrose
Mr Egan	Mr Ryan
Mrs Forsythe	Ms Saffin
Mr Gallacher	Mr Samios
Miss Gardiner	Mr Shaw
Mr Gay	Ms Tebbutt
Mr Hannaford	Mr Vaughan
Mr Kaldis	
Mr Kelly	<i>Tellers,</i>
Mr Lynn	Mrs Isaksen
Mr Manson	Mr Jobling

**Question so resolved in the negative.**

**Motion for adjournment negatived.**

**Reverend the Hon. F. J. NILE** [11.17 a.m.], in reply: I am speaking in reply to the Alcoholic Beverages Advertising Prohibition Bill. I introduced this bill, together with the Tobacco Advertising Prohibition Bill and the Smoking Regulation Bill, which dealt with the effects of nicotine in our society. Those bills were passed by the House. I wanted to postpone debate on this bill today because once I speak in reply, as I have now been forced to, other members will be prevented from speaking to the bill by a vote of the House. The Hon. Dr A. Chesterfield-Evans wished to speak on this bill but he will be prevented from doing so because of the procedure of the House.

The Hon. Elaine Nile: Shame!

**Reverend the Hon. F. J. NILE:** It is shameful. As far as I am aware the House has never dictated when a bill is debated or when debate will finish on a private member's bill, whether it was introduced by a member of the crossbench or a member of one of the major parties. So a new precedent has been set today. I was not advised that members on both sides of the House had agreed to force the bill to a vote today. Once I finish speaking—and I could speak at some length in reply—the bill will be put to a vote. It is a pity that members on both sides of the House have agreed to that strategy without informing me, the mover of the bill.

Perhaps the tactic adopted by the two major parties today will make it difficult for us to cooperate with them in the future. I thank the honourable members who have participated in the debate. I am sorry that more honourable members will not be given the opportunity to contribute to the debate. A number of honourable members have acknowledged the serious harm caused to our society by the excessive consumption of alcoholic beverages.

**The Hon. Elaine Nile:** Even the Premier, Bob Carr.

**Reverend the Hon. F. J. NILE:** In my second reading speech I referred to statements made by the Premier, Bob Carr. He was critical of the harm caused to our society by the consumption of alcohol. Some honourable members have claimed that my bill is a prohibition bill and that it would lead to a ban on the consumption or sale of alcohol. It would do no such thing. The bill deals with one straightforward issue: advertising. The Tobacco Advertising Prohibition Bill dealt with the advertising of tobacco, but people did not stop

smoking when it was passed. This bill, if passed, would not prevent people from drinking alcoholic beverages.

Many honourable members—perhaps the majority of them—consume alcoholic beverages. This bill will not prevent members of Parliament from drinking alcoholic beverages. It deals with advertising and other promotional activities. One of its objects is to prohibit advertising and other promotional activities aimed at assisting the sale of alcoholic beverages and consequently to reduce the incentive for people to consume alcohol. Evidence has proved that advertising has a direct effect on people. This House agreed that advertising tobacco products had a direct impact on consumption levels and certainly on children and teenagers, which is the main group I have targeted with alcohol advertising.

In order to encourage people to consume alcoholic beverages advertising companies usually show people drinking alcohol in the most attractive way—they portray sophisticated young people, leading sportspeople or people in a rugged atmosphere. Sometimes I find those advertisements offensive from the role model point of view. For example, sometimes the advertisements show a sportsman who has just finished competing, who is exhausted and hot, and who grabs a can of beer. As he drinks the beer it runs down both sides of his face. Not only is such an advertisement promoting alcohol but it is also promoting bad manners and crudity.

Advertising companies use every opportunity to promote the product, whether it be in magazines, newspapers or in some other media form. In recent days I have noticed that bottle shops have taken out double-page newspaper advertisements to depict the range of alcoholic beverages on sale. They are trying to encourage people to buy their products. During the debate on this bill advertising pressure was more direct and persuasive; it even increased dramatically the advertising budget of the companies producing alcoholic beverages or involved in the retail sale of such beverages.

The action taken today by both major parties may have resulted from a debate behind the scenes about whether liquor should be sold in restaurants without a meal having been purchased. I noticed some sensitivity on that issue from Government and Opposition members, and perhaps that is the reason they took this action on this bill. It is not so much that the major parties have gagged debate on this bill because if they had agreed to my motion I would have gagged debate, taken the bill off the

agenda and had it debated at another time to allow other members to participate.

Not all honourable members—especially the Hon. Dr A. Chesterfield-Evans—were aware that today would be the last occasion on which the bill would be debated. As I have been forced to speak in reply, the Hon Dr A. Chesterfield-Evans has been prevented from putting forward the views of the Australian Democrats. I am sure he would have made some valuable remarks about the effects of alcohol and would have supported the bill.

I have asked the Minister for Health whether he would encourage honourable members to support this bill, just as he did in relation to the Tobacco Advertising Prohibition Bill. He told me that this was a far more difficult issue because it involved the liquor industry. He gave me the impression that he was reluctant to move into a battle with that industry in this State. Although he may support the bill he must reflect the views of the Labor Party and its position on whether this is a priority issue. The Government's actions today indicate that it would act on Dr Refshauge's recommendations not to support the bill. The attitude of the Minister for Health in this regard is a serious matter. A large percentage of the health budget is spent on treating people in public hospitals whose health has been affected by excessive alcohol consumption.

I am not suggesting that everyone who drinks alcohol ends up in hospital. However, a percentage of people do end up in hospital. In fact, figures suggest that as many as one in 10 hospital beds are occupied by people with health conditions related to the liver and kidneys. In previous debates the House has heard of the hospital waiting list and the bottleneck in the public hospital system. If debate had been allowed to continue on the bill, it may have helped to reduce the pressure on people who take up alcohol in the first place, it may have reduced the number of people whose health is harmed by excessive alcohol consumption and, ultimately, it may have reduced the running costs of the health system and its budget—funds that could be allocated to other areas.

The Quit smoking campaign seems to have been downgraded by the Government. The Government would probably argue that it was short of funds. The Government is having trouble meeting the pressures placed on it in other areas, such as community services. Over time this bill would have reduced the amount of alcohol consumed and the number of people in public hospitals suffering health problems as a result of excessive alcohol consumption.

The liquor industry has responded to my bill by insisting on a policy of self-regulation. The Liquor Merchants Association of Australia advised me it has developed an alcohol beverages advertising code—ABAC—and that it preferred a policy of industry self-regulation. In a letter dated 25 August four executive officers involved in the production of alcoholic beverages—Terry Mott, the Executive Director of Australian Associated Brewers; Gordon Broderick, Executive Director of the Distilled Spirits Industry Council of Australia; Ross Burns, Executive Director of the Liquor Merchants Association of Australia Ltd; and Ian Sutton, Chief Executive of the Winemakers Federation of Australia—put to me that we should accept their new self-regulating alcohol beverages advertising code and complaints management system. They wrote:

The code, which came into effect on 1 July 1998, replaces an earlier code administered by the now disbanded Media Council of Australia. It was officially launched in Melbourne on Friday 10 July by the Federal Minister for Health and Family Services, the Hon. Dr Michael Wooldridge.

ABAC will be operated by a management committee that includes a representative of the Advertising Federation of Australia and a representative from each of the four ABAC principal organisations: Australian Associated Brewers; Distilled Spirits Industry Council of Australia; Liquor Merchants Association of Australia; and the Winemakers Federation of Australia.

The letter went on to say:

A prime feature of ABAC is the establishment of an independent Complaints Adjudication Panel to assess any complaints about alcohol advertisements and to ensure unbiased interpretation of the code. Panel members represent mainstream values and the views of the broader community. They are independent of the alcohol industry and do not represent any particular group.

The letter names the five panel members as the Hon. Michael Levarch, former federal attorney general, and ABAC's chief adjudicator; Ms Ita Buttrose, media personality and businesswoman; Dr Anne Roche, director and senior lecturer at Queensland University's Alcohol and Drug Research Centre; Ms Jeanne Strachan, managing director of Inview Pty Ltd, market research consultants; and Ms Elizabeth Dangar, chairwoman of the Dangar Research Group. The letter continues:

All four ABAC organisations share the wider community view that alcohol product advertising should reflect prevailing mainstream community expectations. We believe our new code demonstrates the commitment of the alcohol beverages industry to ensure this continues. Australia is envied by many countries around the world for its high standards of alcohol advertising. It is a record we are committed to uphold.

That is a direct attempt by the liquor industry to say it does not want the Christian Democratic Party's Alcoholic Beverages Advertising Prohibition Bill. The bill would prohibit all advertising and other promotional activities aimed at promoting the sale of alcoholic beverages and, consequently, reduce the incentive for people to consume alcohol. The industry prefers self-regulation. It has sent me an attractive brochure headed "the nuts and bolts— The Alcohol Beverages Advertising Code (ABAC) and Complaints Management System". It explains the self-regulation of advertising in Australia, the new Australian Association of National Advertisers advertising code of ethics, and the voluntary alcohol beverages advertising code, which states certain principles. In general, I am not opposed to these principles as they are a step in the right direction, but rather than depend on self-regulation I would prefer to go the next step and prohibit alcohol advertising altogether.

My bill would bring advertising to a close; it would prohibit the further advertising of alcohol beverages. People could still drink but there would be no advertising. I am being reasonable in that my bill would establish an alcohol advertising prohibition committee which would be required to prepare a timetable for the removal of advertisements promoting alcoholic beverages and the termination of sponsorships relating to the promotion of such beverages. I accept that this self-regulation code is an improvement on the current system. I hope the House has the courage to see it as an interim step, allowing the alcohol industry to have the voluntary code, while phasing out all advertising of alcoholic beverages.

Many teenagers are affected by alcohol advertising, and that is costing the community a great deal. I have noted reports about binge drinking by teenagers who feel they must show by the amount of alcohol they consume that they have become young men or young women. There have been many reports of parents troubled by the impact of alcohol on teenagers, and even younger children. Advertising is always persuasive, and the use of sporting and other prominent figures who drink alcohol puts psychological pressure on teenagers to imitate them. Some say, "I want to prove I am a man, I will begin to drink alcohol as well." Not everyone who drinks alcohol will become a alcoholic but, sad to say, a percentage always will. No-one knows what that percentage will be.

A few days ago I was speaking with an Aboriginal leader, Pastor Rex Morgan. He grew up on an Aboriginal reserve where no alcohol was available. As a teenager he left the reserve and went

into the wider world, and he was soon consuming a great deal of alcohol. He said, "I never became an alcoholic but I became a drunk." I suppose one can make a distinction between a drunk and an alcoholic. He said, "I finished up a drunk, lying in the gutters of Redfern with a bottle in my hand, with other drunks." In the main, they would have been other Aboriginal people. It was only through the grace of God that he met an Aboriginal lady who fell in love with him, and they married. She encouraged him, with God's help, to break the habit, and today he is an outstanding Aboriginal leader. His is an inspiring story.

I am concerned that as long as advertising continues it will put pressure on teenagers. If alcoholic beverages are advertised, young people will see the advertisements. The voluntary self-regulation code states that the liquor industry will follow certain principles, but I am a bit too cynical to believe it will adopt them wholeheartedly. From today I will be carefully monitoring any advertising. The industry brochure states that advertising:

must not encourage excessive consumption or abuse of alcohol;

must not encourage under-age drinking;

must not promote offensive behaviour, or the excessive consumption, mis-use or abuse of alcohol beverages;

must only depict the responsible and moderate consumption of alcohol beverages.

The liquor industry code states that the advertising of alcoholic beverages is not to have a strong or evident appeal to children or adolescents, and that adults appearing in advertisements must be over the age of 25 years and be clearly depicted as adults. That is a positive move but I shall carefully monitor advertisements. The liquor industry is competitive, and it will be important to ensure that all companies, including overseas companies, abide by the voluntary code. In what way will companies that do not abide by the code be punished? The code is voluntary, so the Government could not close down a company or prevent it from selling alcohol as punishment for not abiding by the code. Compliance with the code will depend on the goodwill of the companies.

The liquor industry's code states that children and adolescents may appear in advertisements only in natural situations, such as attending a family barbecue or a meal at a licensed family restaurant, and that there should be no implication that the depicted children or adolescents will serve or consume alcoholic beverages. It states also that adults under the age of 25 may appear in

advertisements only as part of a natural crowd or background scene. I do not intend to go through the whole code. I believe that its drafting is in direct response to the introduction of this bill. The Christian Democratic Party has consulted many of the organisations involved in assisting casualties of the alcohol industry. I have discussed this bill with the Salvation Army, and Commissioner Hillman Buckingham set out several constructive points in a letter in which he said:

The Salvation Army has a long history of involvement in combating the effects of alcohol-related problems in society. We are well aware of the problems for both individuals and the community that can arise from the consumption of alcohol. We are therefore sympathetic to any practical steps that can be taken in public policy that reduce the costs, both financial and other, to society from alcohol-related problems.

Accordingly, The Salvation Army supports the main purpose of this bill to prohibit the advertising of alcoholic products.

That statement is positive and encouraging. Honourable members from both sides of the House admire the work of the Salvation Army. We often thank the Salvation Army for providing comfort and help and other welfare and community services, especially at times of serious accidents or natural disasters. It seems that honourable members are saying that they are happy for the Salvation Army to pick up the drunks in the street but will not do anything to reduce some of the effects of alcohol in society.

The Salvation Army having expressed its support for the bill, it is a shame that it appears that both sides of the House, that is, the Liberal and National parties and the Labor Party, are opposed to this legislation. Other honourable members may, and probably do, support the voluntary code of the liquor industry—and that is a step in the right direction—but they are not prepared to take the next step and support a prohibition on the advertising of alcoholic beverages. The bill proposes that prohibition on the advertising of alcohol be introduced over a five-year period. I am a realist, and if the bill were passed today I would not suggest that anyone advertising an alcoholic product tomorrow should be arrested, put in gaol or fined.

Honourable members from both sides of the House know that although I have strong views I am always very reasonable when it comes to drafting legislation. The tobacco advertising prohibition legislation allows five years for the implementation of various changes, to allow for adjustments within society and within bodies sponsored by the tobacco companies. This bill provides for a five-year phase-in period. It also proposes that an alcohol advertising prohibition committee supervise the implementation

of the legislation. The committee would represent the industry and ensure that the legislation did not cause any unnecessary hardship affecting jobs or sporting bodies that have been dependent on sponsorship by Tooheys, Fosters or any of the other big beer companies.

I recognise that it may take some time before the sponsorship offered by the liquor industry could be replaced by other companies. People criticised the tobacco advertising prohibition legislation on the grounds that it would adversely affect sports sponsorship. However, Pepsi-Cola, Coca-Cola, and other major companies advised that they had not been allowed to bid for the sponsorship of sporting teams in opposition to the tobacco industry, that there had been a closed shop on sponsorship. Much the same thing could be said today. Some may argue that this bill would cause hardship to sporting bodies that lost sponsorship from the liquor industry.

It is my belief that within a year or two companies that do not have a negative social impact would step in to replace the sponsorship lost from the liquor industry. Large food companies, Telstra and other businesses have already taken on the sponsorship of major sporting activities, and I am sure that many others would step into the breach and sponsor our sporting bodies. The Salvation Army letter to which I have referred acknowledged, as I do, that this bill is supported because it is perceived to be one means of reducing the level of alcohol consumption in society. The Salvation Army stated:

Whether or not such a bill gains wide community support, it does have our support.

This bill has the support of the Salvation Army and many other community and church groups but it does not enjoy the support of members of the major parties in this House. I support the statement made by the Salvation Army. Commissioner Buckingham said in his letter:

We do not see an advertising ban as a panacea. Other policy approaches by governments and other agencies are necessary also in combating alcohol-related problems, but it is not incompatible with those other programmes to move to a ban on advertising. Indeed, we would see a ban as reinforcing the purposes of other programs that deal with alcohol abuse.

The Salvation Army has been very helpful in supporting many aspects of this bill. The Salvation Army's supporting attachment stated:

We welcome the requirement for health warnings to accompany alcohol products (clause 29). While this step is distinct from an advertising ban, it is also a worthwhile one to draw the attention of consumers the possible consequences of their consumption.

All honourable members are aware that over the years health warnings have been required on tobacco products. Why should not similar warnings be included on alcoholic beverages? The Salvation Army concluded its correspondence with the following statement:

With these comments, we express our broad approval of the bill's purposes and we hope that it will be given serious consideration by all members of the New South Wales Parliament.

Sadly, it does not appear that the hope of the Salvation Army will be met. I am sure that both sides of the Parliament cannot say that they have given serious consideration to the bill and rejected it. I do not believe that the bill has been given the serious consideration it warrants. For that reason the Christian Democratic Party would have preferred that this debate be postponed for a period of perhaps two weeks to allow for further discussion on any aspects of the bill that may be causing problems. I would be happy to discuss any amendments.

The bill seeks also to reintroduce local option areas. That is a controversial measure, but it is not the main thrust of the bill. It appeared to be logical to include that provision in this bill but if the majority of members are opposed to it I would accept an amendment to delete it. I hope that measure has not blurred the main thrust of the bill, the prohibition on the advertising of alcoholic beverages. I thought it was related to the main principle of the bill and should be included so that the House could determine whether it is an acceptable way to reduce alcohol consumption.

The consumption of alcohol can be reduced not only by prohibiting advertising but by restricting the availability of alcohol. Under the bill, that would be supervised by the alcohol advertising prohibition committee, under the control of the Minister. There is no hidden agenda in the bill. Indeed, clause 1 of schedule 1 of the bill provides that nominations for membership of the committee are to be sought by the Minister. The Minister would have the power to supervise the operation of that committee. Clause 6 of schedule 1 even provides that the Minister will call the first meeting of the committee.

I am in no way trying to take from the control of the government of the day—whether it be a Labor government or a coalition government—the power to oversee this legislation. The alcohol advertising prohibition committee, comprising five members, would be appointed by the Minister. The committee would provide the Minister with a timetable for the progressive withdrawal of advertising and promotional activities relating to

alcoholic beverages. Clause 18 of the bill requires the Minister to promote regulations providing for the progressive withdrawal of such advertising and promotional activities.

The bill contains those two key points which I hope honourable members will support when they vote. The bill would in no way operate as a guillotine to immediately cut off alcohol advertising, which of course provides significant business for the advertising industry. Alcohol is a legal product that can be advertised. An argument put against the bill is that if products are legal they should be able to be advertised. The tobacco companies put up the same argument when the tobacco advertising prohibition bill was introduced.

I believe that honourable members have clear and constant evidence in government reports of the harmful effects of alcoholic beverages in our society. Drinkers may find it hard to agree, but alcohol is our number one social problem. That is an official statement published in a report by the Federal Parliament and supported by a joint party committee. If alcohol is Australia's number one social problem and makes such a harmful impact on our society, surely the Parliament should consider restricting liquor advertising.

Honourable members know that the Government has passed a number of bills that the Christian Democratic Party has supported. Efforts have been made to discourage hotels from serving liquor to teenagers and/or children, and those efforts have been supported by the Christian Democratic Party. However, liquor advertising has not been dealt with. Honourable members know that many of the bills introduced and supported by both sides of Parliament have been positive and beneficial. The Christian Democratic Party has supported the Government's introduction of bills that prescribe what hotels can do, whom they can serve, and so on.

An alcohol advertising awareness campaign was introduced a couple of years ago. There was controversy about whether the campaign was sexist because it depicted women in what I thought was a derogatory way. Councils have also introduced alcohol-free zones, and that is another step in the right direction to help reduce some of the problems in our society. In some of the bigger cities there have been major problems. For instance, in Wollongong the police patrol commander recommended a midnight curfew on alcohol sales at Wollongong's licensed premises to stamp out street violence in an endeavour to reduce vandalism. The Christian Democratic Party supported that action.

I note that 200,000 milk cartons have been used to advertise the penalties for buying or supplying alcohol to under-age drinkers. On one hand the Government is trying to stop under-age drinkers having access to alcohol and on the other hand under-age drinkers see advertisements promoting alcohol in newspapers and on television. There is an accusation that the major parties appear to be inconsistent or even hypocritical about liquor advertising.

Currently there is an argument as to whether alcohol-free zones are successful. I support those zones. I am pleased that the Government has introduced tough penalties for adults who sell alcoholic beverages to teenagers, and for teenagers who try to buy alcohol. The Minister for Gaming and Racing, the Hon. Richard Face, said that the current under-age drinking epidemic is just ludicrous. He warned that the pussyfooting is over. The Minister said that people who are stupid enough to buy alcohol for minors will find themselves before the courts.

The Minister said also that the Government wanted to beef up the current legislation that enables police to issue \$200 on-the-spot infringement notices for secondary purchases. He said further that the Government will look at increasing fines to a possible maximum of \$10,000, with a gaol term in the worst cases of someone selling alcohol products to an under-age person. The Christian Democratic Party supports the Minister, but it seems that his strong statements are a bit hollow if he and the Cabinet oppose this bill.

The Minister said, "What's this smack in the wrist business worth when our community is going down the gurgler?" Strong statements have been made by various members of the Government, the Premier and the Minister for Gaming and Racing, who is responsible for liquor bills, about the controversial issue at the moment before the community relating to hotels, restaurants and so on. I cannot understand why there seems to be so much opposition to my bill. That has been demonstrated by the way in which I have been treated today and by the refusal to allow this debate to be adjourned.

**The Hon. Jan Burnswoods:** Seven years is too long. You just want to keep it going because you know no-one supports it.

**Reverend the Hon. F. J. NILE:** Many bills take that long to go through this House.

**The Hon. Jan Burnswoods:** You have delayed it because you know it has no support.

**Reverend the Hon. F. J. NILE:** It is not my fault that these bills take so long. The Hon. Jan Burnswoods knows that it takes a long time to bring on a private members' bill.

**The Hon. Jan Burnswoods:** You have deliberately deferred this bill again and again because you know no-one will vote for it. The Liberal Party will not vote for it, the Labor Party will not vote for it, and the National Party will not vote for it. You've known that for years.

**Reverend the Hon. F. J. NILE:** I know, and that has become clear. Apparently for some reason the Hon. Jan Burnswoods strongly opposes any restrictions on the advertising of alcoholic beverages. I am not debating the local option; I am debating the advertising of liquor.

**The Hon. Jan Burnswoods:** No, I said in my speech that I thought the local option was absolutely disgraceful.

**The PRESIDENT:** Order! The Hon. Jan Burnswoods will cease interjecting. Reverend the Hon. F. J. Nile will address the Chair.

**Reverend the Hon. F. J. NILE:** The local option is not the main thrust of the bill. I simply added that to the bill because it seemed logical to do so. I made it clear in my contribution to the second reading debate that local option was never an essential part of the bill and that I was happy to accept amendments to remove it. If the Hon. Jan Burnswoods is implying that that is why the Labor Party opposes the bill; it shows how inconsistent her party is. Often amendments to bills remove a clause, a schedule or other parts of those bills. Recently that happened with the Sydney City Council election legislation, and I accept that. The honourable member admitted that she had been able to stir up opposition to the bill because of the local option aspect. That is regrettable, because she has missed the main purpose of the bill: 95 per cent of its content refers to liquor advertising, not local option.

**Pursuant to sessional orders business interrupted.**

## QUESTIONS WITHOUT NOTICE

### WORKCOVER AUTHORITY

**The Hon. J. P. HANNAFORD:** My question is directed to the Attorney General. Is it a fact that the WorkCover scheme continues to experience a

growing deficit that now approaches \$2 billion? Will the Attorney inform the House which of the parties, employers or the State Government, will bear the burden of this level of indebtedness?

**The Hon. J. W. SHAW:** It has always been the case that employers pay for the scheme, and that was agreed to in recent negotiations in the lead-up to legislation passed by this House.

### DEPARTMENT OF PUBLIC WORKS AND SERVICES FAR WEST PROJECTS

**The Hon. A. B. KELLY:** My question is to the Minister for Public Works and Services. What work is being undertaken by the Department of Public Works and Services in the far west of New South Wales?

**The Hon. R. D. DYER:** I am grateful to the Hon. A. B. Kelly for his question and for his obvious interest in the western part of New South Wales. As he lives at Wellington he is in a position to take an interest in that area.

**The Hon. J. H. Jobling:** That is not the western division.

**The Hon. R. D. DYER:** The Hon. A. B. Kelly lives a lot closer to the western division than I do. This year marks the 100th anniversary of the opening of the Broken Hill office of the Department of Public Works and Services, which manages projects in the far western region of New South Wales. The office has been in existence since 1898, and this year is responsible for infrastructure and maintenance projects worth in excess of \$50 million. As with recent project packages that I have outlined in regard to Lithgow and the north coast, this spending package reflects the State Government's commitment to providing essential infrastructure in country areas.

The works program for this year includes a broad spectrum of government services including health, education, housing and law and order. Last week I reported on ongoing works at Broken Hill hospital and the attached Corrindah Court complex, which the Premier and I inspected in recent weeks. The hospital remains on target for completion by mid-2000. Other projects being undertaken by my department in the far west include \$1 million for the construction of the periodic detention centre at Broken Hill gaol.

**The Hon. D. F. Moppett:** What did you do at Corrindah court?

**The Hon. R. D. DYER:** The Hon. D. F. Moppett shows his ignorance in regard to this matter. Corrindah Court is the name of a building, it is not a courthouse.

**The Hon. D. F. Moppett:** You did not say that.

**The Hon. R. D. DYER:** Corrindah Court has been refurbished by my department. The Hon. D. F. Moppett has no idea what he is talking about. I visited the building with the Premier and the Minister for Health. The complex has been refurbished for use by the rural health department of the University of Sydney, not for use as a courthouse.

**The Hon. D. F. Moppett:** I was there when Ron Phillips did that.

**The Hon. R. D. DYER:** The Hon. D. F. Moppett really should hold his tongue, because he does not know the purpose to which this building is being put.

**The Hon. D. F. Moppett:** You did not say that. You said you visited the court, and there is no court there.

**The Hon. R. D. DYER:** The use of the word "court" is descriptive of the building, but not its use. Other projects being undertaken by my department include \$560,000 for works on Broken Hill High School and the provision of long-term school maintenance contracts for the region between Tibooburra in the north and Gol Gol in the south. In addition, the Government operates a lead remediation project for the removal of lead-contaminated soils and the remediation of private and public buildings in the Broken Hill township.

This project has been operating since the election of the Carr Government in 1995 and has currently remediated all schools, police stations and public buildings in Broken Hill as well as 250 private homes. As always, every effort is made to ensure local businesses and contractors benefit from Department of Public Works and Services tenders. This helps the State Government's investment in the region and boosts local jobs.

I am pleased to say that the overwhelming bulk of the \$50 million package has been provided to local businesses, and outside contractors have generally been employed only where particular expertise is required that may not be locally available. This year's projects are the latest in a long

line of works over the years and show the considerable confidence that the Labor Government has in a strong future for the far west of the State. Again I acknowledge the keen interest that the Hon. A. B. Kelly takes in the western division.

#### PARTHENIUM WEED

**The Hon. R. T. M. BULL:** I address my question to the Minister for Public Works and Services, representing the Minister for Agriculture, and Minister for Land and Water Conservation. Is it true that the State is in serious threat of an influx of parthenium weed because the parthenium weed border-crossing facility at Mungindi is located only a short distance from the edge of the Barwon River, a site subject to frequent flooding and currently under half a metre of water? Why has the Minister failed to take decisive action and relocate the facility to an area that is not prone to flooding, despite knowing about this problem since gaining office?

**The Hon. R. D. DYER:** I shall have to be briefed by my colleague the Minister for Agriculture regarding parthenium weed. The Minister will be concerned to address the honourable member's question and I shall convey the response to the Deputy Leader of the Opposition as soon as I possibly can.

#### WAVERLEY AND WOOLLAHRA COUNCIL BOUNDARIES

**The Hon. D. J. GAY:** My question is to the Treasurer, representing the Premier. Did Cabinet approve a decision by the Minister for Local Government to withdraw a reference to the Local Government Boundaries Commission in relation to the boundary between Waverley and Woollahra council areas at Bondi Junction? Following this withdrawal was approval sought by Cabinet for a new reference to be issued, based on Waverley Council's proposal?

**The Hon. M. R. EGAN:** I should have thought the question would be directed to the Minister representing the Minister for Local Government. In any event, the Hon. D. J. Gay would have to be a new kid on the block to think that I would give this House an account of what happens in a Cabinet meeting.

**The Hon. D. J. GAY:** I ask a supplementary question. Are the Treasurer, the Premier and Cabinet aware of the potential conflict of interest facing Ernie Page over this matter? Did the Minister declare a conflict of interest in his inquiry because

of his relationship with Waverley for 25 years as an alderman, including nine years as mayor? Is the Treasurer further aware that Mr Page's senior policy adviser, Mr Ted Plummer, is an elected member of Waverley Council? If so, does this present a conflict of interest for the Minister, and additionally for Mr Plummer, in Waverley Council's proposal to acquire a portion of the Woollahra Council area?

Would Councillor Barbara Armitage, being the previous mayor of Waverley, also be declaring a conflict of interest given her recent appointment by the Minister to chair the Grants Commission? Did Ernie Page declare that, as a Minister in a marginal seat, he is wholly dependent on Waverley Council's support?

**The Hon. M. R. EGAN:** The question asked by the Hon. D. J. Gay is based on a number of assumptions and assertions. I am not familiar with any of those. The basic premise of the question is an assumption. The honourable member should not make such assumptions in asking questions.

#### DEE WHY SEAWALL

**The Hon. DOROTHY ISAKSEN:** I ask a question of the Minister for Public Works and Services. Will the Minister advise what steps the State Government is taking to assist Warringah Council with repairs to the Dee Why seawall, which collapsed following recent storms?

**The Hon. R. D. DYER:** At the outset I would like to acknowledge the ongoing interest in the project taken by the Hon. Dorothy Isaksen. In fact, the honourable member attended on the occasion of my inspection of the collapsed seawall at Dee Why beach and inspected the storm damage that had occurred there. What is more, she argued the case—very effectively, I might say—with both my colleague the Treasurer and me to obtain the necessary declaration of the Treasurer and subsequent funding to enable restoration of the collapsed seawall.

Honourable members might be aware that the seawall and beachfront at Dee Why were seriously damaged by high seas and rains. The 70-year-old seawall was undermined by the removal of sand from the beach. Approximately one-third of the seawall subsided, posing a safety risk and also endangering the foundations of the remainder of the wall. The high seas also undermined Dee Why beach and made it inevitable that the entire wall would have to be replaced to prevent a major collapse along the length of the Dee Why beachfront. My colleague the Treasurer declared the

storms a natural disaster, making State funds available for reconstruction. Following representations to me by the Mayor of Warringah Council, councillor Sam Danieli, and councillor Tom Webster—a former member of the other place—in July I inspected the damaged seawall with officers of my department.

**The Hon. R. T. M. Bull:** Did the Hon. Dorothy Isaksen make representations on that matter too?

**The Hon. R. D. DYER:** Yes. I said that at the outset of my response. I am pleased to inform the House that State Government funding will be available to restore the structure to its original condition. The estimated cost of this reconstruction is in the order of \$1.7 million. The State Government will provide 75 per cent of the funds up to the first \$100,000, then 100 per cent of funds thereafter. Warringah Council has agreed to provide an additional \$50,000 to cover pre-existing damage to the wall, with the State Government picking up the remainder of the bill. Council has undertaken to complete the work as swiftly as possible, to ensure that Dee Why beach is in a safe condition before the summer holidays.

**The Hon. Dr B. P. V. Pezzutti:** It was a big storm. I witnessed it. It was the night that the Premier promised to have wine available in coffee shops. I remember it vividly.

**The Hon. R. D. DYER:** For once, the Hon. Dr B. P. V. Pezzutti is absolutely right: it was a major storm. The seawall was in a badly eroded condition and, to my eye as a layperson, in danger of collapse. That raised a serious safety concern. I would hate to think that children might be playing nearby if a collapse might occur. The council has given a commitment to undertake the work promptly. I am sure that work, which is about to get under way, would be welcomed by local businesses at Dee Why which depend on tourist trade over summer.

The entire process of disaster declaration and cost assessment was conducted in record time. I take this opportunity to congratulate Warringah Council and local officers of the Department of Public Works and Services for their thoroughness and efficiency in making sure there were no delays in approving payments for the reconstruction works to which I have referred. Warringah Council aims to complete the works by December this year. I look forward to the restoration of Dee Why beach to its former glory by this summer.

### INTERNET GAMBLING

**The Hon. FRANCA ARENA:** I ask a question without notice of the Minister for Public Works and Services, representing the Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development. Is it a fact that the Government is considering legalising gambling on the Internet and that this would allow gaming operators to set up virtual casinos for the booming number of on-line punters? When is this gambling industry going to stop? Is the Minister aware of the enormous distress and the family break-ups that gambling causes in our society? Does the Minister not feel that gambling on the Internet will be the last nail in the coffin?

**The Hon. R. D. DYER:** I thank the Hon. Franca Arena for her question, to which I will obtain a response as soon as I conveniently can from my colleague the Minister for Gaming and Racing.

### COMMUNITY LEGAL CENTRES SUPPORT

**The Hon. JANELLE SAFFIN:** I ask a question without notice of the Attorney General. Will the Attorney inform the House about the support that the Government provides for community legal centres in this State?

**The Hon. J. W. SHAW:** Recently I had the pleasure of opening the nineteenth national conference of community legal centres in Sydney, and I take this opportunity to recognise the significant role carried out by community legal centres staff and volunteers in striving to make the delivery of legal services in our community more equitable and accessible. As honourable members of this House would be aware, community legal centres perform a vital service to the community by providing information, assistance and legal representation to those who are in a position of great disadvantage in accessing legal services, particularly the unemployed, the elderly, youth, people with disabilities, Aboriginal people, women, and people from non-English speaking backgrounds.

It is also important to recognise the significant role undertaken by community legal centres in promoting greater community understanding of the law and legal processes to enable citizens to enforce their legal rights. The services delivered by community legal centres provide a valuable complement to the work of the Legal Aid Commission. Community legal centres are funded by the State Government in conjunction with the Commonwealth Government, the Legal Aid Commission and the trustees of the Solicitors Trust

Fund account. I am pleased to inform the House that the New South Wales Government, in line with its election commitments, has made substantial increases in the State's contribution for community legal centres funding, which position has been maintained in the current budget.

Within the community legal centres funding program the Government has budgeted for expenditure of approximately \$2.179 million, to be allocated across 24 urban and regional centres, and the community legal centres secretariat, which manages the distribution of funds. The Government also has budgeted for additional funding of approximately \$97,000 under the area assistance scheme funding program to three community legal centres. In total, the Government has budgeted for expenditure of approximately \$2.276 million for the community legal centres and area assistance scheme programs.

Now that the full impact of the Commonwealth Government's legal aid funding cuts is being felt in the community, it is clear that the Federal approach represents a serious challenge in addressing issues of access to justice for disadvantaged people. In this environment the work of the dedicated staff and volunteers working in community legal centres is more important than ever, and the Government, through its community legal centres funding initiatives, recognises the valuable role played by community legal centres in dealing with disadvantaged people.

### MOTOR VEHICLE COMPLIANCE PLATES

**Reverend the Hon. F. J. NILE:** I ask the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading a question without notice. Is it a fact that compliance plates from wrecked vehicles are being used to replace compliance plates on stolen vehicles? Is it further a fact that stolen vehicles with switched compliance plates are then being sold to unsuspecting buyers? When a stolen vehicle is identified as having switched compliance plates is it correct that the vehicle is taken from the new owner, who loses his investment in the vehicle? What action will the Government take to require insurance companies to remove compliance plates from damaged vehicles prior to them being sold to wreckers to be salvaged for parts, thereby preventing compliance plates from being recycled for use on stolen vehicles?

**The Hon. J. W. SHAW:** It has recently come home to me that the stolen vehicle industry is a major industry in Australia; I was surprised by the statistics. New South Wales has a system of

registering encumbered vehicles, but the stolen vehicle industry is a national industry and stolen cars are often moved interstate. There is a case for much better co-ordination between State authorities and agencies. It is not enough for this Government simply to protect consumers in New South Wales.

I have had a number of discussions with Department of Fair Trading officials, and I know that work is being done with a view to dealing with a difficult problem. The Roads and Traffic Authority has a responsibility to deal with compliance plates. It is a matter of co-ordination between the Department of Fair Trading, the Roads and Traffic Authority and, no doubt, other agencies such as the police. I will undertake to get a more comprehensive report for the honourable member with a view to indicating what might be able to be done to address the problem he referred to.

#### SEXUAL ASSAULT PROSECUTIONS

**The Hon. PATRICIA FORSYTHE:** My question without notice is addressed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Has the Director of Public Prosecutions issued instructions to lawyers in the office of the DPP that sexual assault cases the DPP has deemed unlikely to be won because the victim has not come forward immediately should be rejected? Does the DPP's actions reinforce the stereotype that women who do not complain immediately are frivolous or vindictive? What action has the Attorney General taken to ensure that women who are the victims of sexual assault are not denied their right to justice in New South Wales?

**The Hon. J. W. SHAW:** I am unaware of any guidelines issued by the DPP. However, I did read an article in today's *Australian* which seemed to indicate that there was a policy or a change in policy. I do not think anyone would dispute that prosecution authorities need to be satisfied that the evidence has a reasonable chance of persuading a jury to convict a person before prosecuting a particular charge. Not every allegation has been prosecuted in our criminal courts. I do not think anyone would seriously contend that every allegation must be prosecuted, but I would be concerned if there was a significant shift in policy in this area. I have already determined to raise this matter promptly with the DPP to go through what changes, if any, he has effected.

When people have a serious complaint of criminal conduct, whether it be sexual assault or other forms of criminal conduct, it is important that it be given proper attention by the prosecutorial

authorities. Nor do I accept that there is a general rule that a delay in making the complaint necessarily means that the complaint is not sustainable. There could be all kinds of psychological or other reasons for a person not making a complaint as promptly as might be desirable in an ideal world. I do not believe there should be a general rule that the delay, of itself, means that the prosecution should not be brought. I undertake to the honourable member that I will raise this matter promptly with the DPP, and I may be able to report back to the House when I receive that reply.

#### RETIREMENT VILLAGE BUDGETS

**The Hon. J. KALDIS:** I ask the Minister for Fair Trading a question without notice. What is the Government doing to assist the resolution of budget impasses in retirement villages?

**The Hon. J. W. SHAW:** Another thing I have learned recently is that frequently there are disagreements between the residents and management of retirement villages about budgets. Naturally, the interests and concerns of retirement village operators and residents can differ at times. Retirement village operators may wish to increase fees to meet rising costs or to provide new services and facilities to attract new residents. On the other hand, retirement village residents may believe that a fee increase is unnecessary or not affordable, or they may want their money spent in other areas. Under the retirement village industry code of practice, established under the Fair Trading Act, a retirement village fee increase cannot be effected until the budget has been agreed to by the residents. However, the code does not, understandably, require the unanimous support of village residents.

A majority of the residents who involve themselves in the process is all that is needed. In practice this means that most village budgets are agreed to, despite the occasional objection of individual residents. Nevertheless, in some cases the majority of residents have not agreed to a proposed budget increase and an impasse results. On occasions continuing disagreement has meant that the budgets for succeeding years have not been agreed to. In fact, there have been instances when budget impasses have remained unresolved for up to five years.

In cases in which operators and residents are unwilling to alter their positions the effective operation of the village may be threatened by the dispute. These disagreements were previously dealt with in the court system, often causing unnecessary expense and distress, particularly to elderly

residents. Consequently, the Government introduced measures in the Retirement Villages Amendment Act to assist in resolving budget impasses. The reform commenced on 1 September. The Act gives the Residential Tenancies Tribunal the power to adjudicate on budget impasses in a fast and relatively informal manner.

The steps the tribunal may take to resolve retirement village budget disputes include giving procedural directions to the parties to facilitate agreement, making recommendations to the parties, approving what the tribunal considers to be a fair and reasonable budget and setting a limit on fees payable by residents for periods of up to 12 months. These reforms mean that residents and retirement village operators will be more readily able to resolve budget impasses.

Access to the tribunal has been made easier since the Carr Government recently removed the tribunal's application fee of \$10 for social security recipients, which includes most retirement village residents. That is further evidence of the Carr Government's commitment to improving services for the elderly in supported accommodation by promoting a cost-effective means of resolving disputes. This is a sensible and worthy new measure.

#### SYDNEY WATER TASK FORCE

**The Hon. I. COHEN:** I ask the Treasurer, Minister for State Development, and Vice-President of the Executive Council, representing the Minister for Urban Affairs and Planning, and Minister for Housing, a question without notice. Will the Minister inform the House who has been appointed to the Sydney water task force, which will implement the recommendations of the Sydney water inquiry? Despite repeated inquiries of the Premier's office, why have I not been able to obtain a list of the task force members although they were announced by the Premier early last week? What provisions have been made for community and stakeholder input into the process?

**The Hon. M. R. EGAN:** I will endeavour to obtain a response—

**The Hon. Patricia Forsythe:** Endeavour?

**The Hon. M. R. EGAN:** I will obtain a response from my colleague.

#### RIVERLINK INTERCONNECTOR

**The Hon. J. M. SAMIOS:** My question is addressed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Is it a fact that due to the recent increases

in electricity pool prices to more than \$20 per megawatt hour and the proposed increases in peak load generation capacity in South Australia the commercial viability of the New South Wales Government-funded \$110 million Riverlink interconnector is now in question? Why are Transgrid and the Government continuing to waste taxpayers' money when the National Electricity Market Management Company has already rejected the Riverlink proposal?

**The Hon. M. R. EGAN:** I am staggered that the Hon. J. M. Samios, the Deputy Leader of the Liberal Party, would ask such a question! I can only assume that it is another one of those questions provided to him by Opposition researchers, who very often do not know what they are talking about. Of course the New South Wales Government supports an electricity interconnector between New South Wales and South Australia—as did the South Australian Government until very recently. It now argues that the interconnector should be built at some later stage, if at all. No doubt South Australia is not interested in businesses in its State having the benefit of lower electricity prices that proper and real connection to the national market would provide. I would have thought—in fact, I did think—that the concept of a national electricity market would have bipartisan political support in Australia, particularly in New South Wales.

A national electricity market cannot be established unless there is interconnection between the players—the States—in that market. New South Wales is not only keen to see the construction of the much-delayed interconnector between New South Wales and Queensland, but also is keen to see an interconnection between New South Wales and South Australia. As I have pointed out, interconnection will simply mean that South Australian businesses and consumers will have the benefit of lower electricity costs.

The economic future of South Australia, going by all economic indicators over the last few years, has a big question mark over it. South Australia is one of the rust belt States. It cannot survive and prosper if the cost of business inputs remains as high as it is. South Australian businesses and domestic consumers pay more for their electricity than people in New South Wales or Victoria. If South Australia wants investment and jobs, it must get the price of energy down.

**The Hon. J. P. Hannaford:** Are you supporting the privatisation of electricity?

**The Hon. M. R. EGAN:** If South Australia has a privatised electricity industry within its

borders, it is not a national electricity market and South Australia will not be able to take advantage of lower prices that result from a national market. South Australia should think again and put the interests of its businesses and job seekers ahead of the task that apparently it has set itself of just trying to get the highest possible price for the sale of its electricity generators. Some consideration should be given to stimulating economic growth and development in South Australia.

### GOULBURN HORSERACING

**The Hon. P. T. PRIMROSE:** Will the Treasurer, and Minister for State Development inform the House of the investment the Government has made in Goulburn's horseracing and training industry?

**The Hon. Dr B. P. V. Pezzutti:** You never go to the races—do you?

**The Hon. M. R. EGAN:** The Hon. Dr B. P. V. Pezzutti is at it again—and I have promised not to call him Tutti-Frutti. Of course I go to the races! Not only do I go to the races but I saved the racing industry in this State, which the industry acknowledges. I go to the races, but not often. I am going to the races on 3 October and I look forward to it. It will be a great day.

**The Hon. Patricia Forsythe:** From the polling booth?

**The Hon. M. R. EGAN:** I will be going straight from the races to the tally-room. I believe that I will back quite a number of winners on the day. I will be at the St Vincent's booth from about 8.00 a.m. to about 12 noon, and I will probably return to the booth later in the day.

**The Hon. J. P. Hannaford:** Put your money on the horses, not on Beazley!

**The Hon. M. R. EGAN:** I will have a wager with the honourable member on the outcome. Even though John Howard is not looking too secure, he is more secure than the Leader of the Opposition because the Hon. C. J. S. Lynn is conspiring again with his colleague from the central coast the Hon. M. J. Gallacher. When they dump Collins and Phillips they will also dump him. Fancy the Hon. C. J. S. Lynn being Leader of the Opposition! That is the prospect we look forward to. This question should not have been asked by my colleague the Hon. P. T. Primrose; it should have been asked by someone who boasts about coming from the Goulburn-Crookwell area: the Hon. D. J. Gay!

The Goulburn and District Racing Club will be upgraded through the Government's new regional economic transition scheme. The scheme was set up by the Government to help towns such as Goulburn that have suffered sharp economic shocks. The Government will pay for a new sewerage line to link the Goulburn racecourse to existing town services. As a result, the racing club will be able to complete a six-lot subdivision that can be sold to out-of-town trainers and others in the equine industry for new racing and training facilities. The development is expected to see an additional 200 horses trained at the new racecourse and the creation of up to 80 jobs. The benefits to Goulburn will be significant. Related businesses, including vets, stockfeed stores and motels, will receive a cash injection from increased business and the building of new stables and houses.

The industry estimates that for every five horses trained on track one full-time and one casual position will be created. For every horse in training it is estimated that the local economy will benefit to the tune of \$14,000 per annum. An extra 200 horses in training will create a \$2.8 billion boost for the Goulburn economy. I am told that the racing club has received firm commitments from some thoroughbred trainers to relocate their operations to the new Goulburn racetrack. The official opening of the new racecourse is expected in early 1999. I am sure the Hon. D. J. Gay and the shadow minister will receive an invitation—as will you, Madam President, if you would like to attend. The first trial meeting is expected to be held in November.

Goulburn's racing industry received a boost following the float of the TAB. One of the highlights following the float of the TAB was the \$50 million contribution to the Racing Industry Development Fund. With that \$50 million funds were made available to race clubs across New South Wales in accordance with outstanding commitments of the previous Race Course Development Fund. In this regard, \$2.3 million will be made available to the Goulburn and District Racing Club to cover the balance of assistance for the construction of a new racetrack and associated works. The Government will continue to work hard to support the growth of Goulburn's horseracing and training industry.

**The Hon. Dr B. P. V. Pezzutti:** Do you get plenty of tips when you go to the races?

**The Hon. M. R. EGAN:** I do not take any notice of tips. If the Hon. Dr B. P. V. Pezzutti wants a sound tip, I will tell him the system to follow. Get Saturday's *Sydney Morning Herald* or *Daily Telegraph*, go through the betting market and find

anything that is a clear third favourite. If two or three horses share that spot, do not bet on that race. If it is a clear third favourite, back it each way.

**The Hon. D. J. Gay:** That is how he draws up his budgets.

**The Hon. M. R. EGAN:** I have had the boffins at Treasury go over my system. I am pleased to tell the House that they have advised me that my system is as good as any other they have studied. My advice is: do not take any notice of tips, follow my system and win a few bob.

### QUIT SMOKING CAMPAIGN

**The Hon. Dr A. CHESTERFIELD-EVANS:** My question without notice is directed to the Minister for Public Works and Services, representing the Minister for Health. Is the Minister aware of the horrifying figures released today by the heart and cancer offensive against tobacco that show that New South Wales schoolchildren spend \$30,552,000 on cigarettes per year? Will the Minister dispute the accuracy of these figures? If not, how can the Minister justify the pathetic, inadequate and reduced level of funding of \$1.3 million dedicated to the Quit campaign by his department?

**The Hon. R. D. DYER:** I shall be delighted to obtain a response to that question and convey it to the Hon. Dr A. Chesterfield-Evans.

### LOCAL COURT REPORT DELAYS

**The Hon. Dr B. P. V. PEZZUTTI:** My question without notice is directed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Is it a fact that Lismore magistrate Jeff Linden and local solicitors have stated that gaols are being used as de facto holding cells for mentally ill people due to delays in obtaining psychiatric reports? Is it also a fact that in one case an urgent psychiatric report was requested for one man but it did not arrive for two months, despite this person appearing in court six times with no report available? This man has subsequently been released. Will the Attorney General undertake to consult his colleague the Minister for Health and ask why this situation has occurred and ensure that there are no repeat incidents?

**The Hon. J. W. SHAW:** I am not aware of the comments of Mr Linden, the Lismore magistrate, in this regard.

**The Hon. Dr B. P. V. Pezzutti:** You should read the *Northern Star*.

**The Hon. J. W. SHAW:** I regret that I am not a regular reader of that newspaper. Psychiatric reports are a matter for the correction's health service, which falls within the portfolio of the Minister for Health. Obviously liaison is needed between the court system, the prosecution system and the Health Department in relation to these matters.

**The Hon. Dr B. P. V. Pezzutti:** What are you going to do about it?

**The Hon. J. W. SHAW:** The question concerns the difficulty, it is said, of obtaining psychiatric reports. That is a matter for the Minister for Health, and there will be further liaison between those agencies about that.

**The Hon. Dr B. P. V. Pezzutti:** Will you look into this particular matter?

**The Hon. J. W. SHAW:** Yes, I am happy to look at this particular matter, if I can identify it sufficiently from the question.

### SYDNEY ECONOMIC DEVELOPMENT

**The Hon. CARMEL TEBBUTT:** Will the Treasurer inform the House of the role the Government is playing in the development of Sydney as one of the world's leading financial centres?

**The Hon. M. R. EGAN:** A recent report released by the New South Wales State Chamber of Commerce stated that Sydney is booming. The "Vital Signs" report has found that Sydney is a magnet for development, tourism, and regional headquarters, and is ranked first in the world for labour force attractiveness. The report tracks the progress and development of Sydney in the lead-up to the 2000 Olympics and beyond. The "Vital Signs" report has revealed that Sydney, with 34.1 per cent of the nation's economic activity, is growing at an unprecedented rate. This wave of development in our city has created 10,000 jobs in the past year. The central business district is humming with developments worth \$3.74 billion, and a further \$3 billion worth of construction is planned before the Olympics.

Tourism, which employs tens of thousands of people, is also booming. In fact, 13 hotels are under construction. The "Vital Signs" report also found that Sydney has retained its position as Australia's number one convention city. Next year, convention delegates are expected to spend more than \$150 million in New South Wales. The "Vital

Signs" report also highlights the Government's success in attracting regional headquarters to New South Wales. More than two-thirds of all foreign regional headquarters are located in Sydney—three times the number of regional headquarters located in Melbourne.

Sydney is a world-class city and the New South Wales economy is now the fourth largest in the Asia-Pacific region. Its economy is larger than that of Singapore, the Philippines and Malaysia. New South Wales enjoys a AAA credit rating, boasts a highly skilled work force and the cheapest port charges in the country. The State Chamber of Commerce "Vital Signs" report is further confirmation that the New South Wales policy regarding economic development, employment and investment attraction is a great success.

#### CHILDHOOD ASTHMA

**The Hon. A. G. CORBETT:** I ask the Minister for Public Works and Services, representing the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs, a question without notice. According to Australian Bureau of Statistics data reported in the *Sydney Morning Herald* earlier this year, asthma affects 28 per cent of Australian children. Will the Minister explain what medical research has identified as the most likely factors contributing to this high rate of asthma and what is being done to minimise these risk factors?

**The Hon. R. D. DYER:** I will refer the Hon. A. G. Corbett's question to my colleague the Minister for Health and obtain an answer for him.

#### MOTOR VEHICLE MILLENNIUM BUG ACCIDENT INSURANCE

**The Hon. J. H. JOBLING:** My question without notice is to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Will the Minister confirm that insurers will not recognise claims for motor vehicle accidents caused by vehicle computers failing due to a millennium bug problem? What action has the Department of Fair Trading taken to ensure that suitable advice is provided to manufacturers and retailers of all new motor vehicles about this potential problem and their advertising responsibilities? What steps has the Department of Fair Trading taken to protect unsuspecting purchasers of new vehicles from this problem? What guarantee will they be given that their new vehicle is year 2000 compliant?

**The Hon. J. W. SHAW:** I have had a number of discussions with the departmental heads of the Department of Fair Trading about the millennium bug and the miscellany of issues that arise out of that problem. I confess that I do not have any precise information about the matter raised by the honourable member. I shall make inquiries and report back to the honourable member.

#### UNFAIR DISMISSAL LAWS

**The Hon. A. B. MANSON:** My question without notice is to the Attorney General, and Minister for Industrial Relations. There appears to be a degree of misinformation disseminating from certain sectors concerning unfair dismissal claims in New South Wales. Will the Minister inform the House of the true state of affairs?

**The Hon. J. W. SHAW:** I am concerned that there is an element of mythology about unfair dismissal claims, propagated by some people active in the political system and by a minority of employers. It would be regrettable if employers thought there was any rational basis for being deterred from taking on staff because of unfair dismissal laws. The New South Wales unfair dismissal laws are broadly in parallel with those applying in the Federal jurisdiction. Every liberal democratic system with which I am familiar has some protection against unfair dismissal and some system whereby employees who are unfairly dismissed can obtain a remedy.

For all the strictures on labour relations in Mrs Thatcher's England, it always maintained—and still maintains—an unfair dismissal system, whereby tribunals determine allegations that a particular person has been unfairly treated in the dismissal context. Unfair dismissal claims are lodged by less than 0.2 per cent of the 2.33 million employees in New South Wales. A dangerous mythology suggests that this is some kind of major phenomenon in our industrial life.

Under New South Wales legislation the number of claims of unfair dismissal is in decline. Claims decreased by 11 per cent in the first six months of this year compared with the same period last year. I understand that the number of claims has increased in the Federal jurisdiction. A recent Department of Industrial Relations survey shows that in New South Wales 94 per cent of unfair dismissal claims are conciliated or otherwise settled. Of the 6 per cent of claims the subject of arbitration, the majority were decided in favour of the employer.

In the Federal jurisdiction, by way of contrast, 64 per cent of arbitrated unfair dismissal claims favour the employee. I think New South Wales has the right balance. It is regrettable that any employer or any politician would seek to perpetuate a myth that unfair dismissal laws represent some kind of fetter on employment. It is important to dispel the myths, and I urge all sensible commentators to assist in that process.

#### DRINK DRUNK CAMPAIGN

**The Hon. HELEN SHAM-HO:** I ask a question of the Minister for Public Works and Services, representing the Minister for Health. Can the Minister explain why the Drink Drunk campaign—which aimed to discourage adolescents from consuming alcohol—despite receiving \$750,000 of public funding, never got off the ground? Is it true that the campaign was stopped at the last moment because it had used the same tag line as the Nurses Association of Australia? If these allegations are true, what will the Minister do to rectify the situation?

**The Hon. R. D. DYER:** I shall obtain a response to this question from my colleague the Minister for Health and convey it to the Hon. Helen Sham-Ho.

#### MOUNT DRUITT HOSPITAL EMERGENCY DEPARTMENT SERVICES

**The Hon. J. F. RYAN:** My question is addressed to the Minister for Public Works and Services, representing the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs. Is it a fact that Mr Colin Osborne, the general manager of health services for Blacktown and Mount Druitt, has recommended to the New South Wales Government that the emergency department services at Mount Druitt Hospital be closed? Will the Government guarantee the future of emergency department services at Mount Druitt Hospital after the next State election?

**The Hon. R. D. DYER:** I am not aware of the correctness or otherwise of the alleged facts contained in the honourable member's question. However, I will obtain a response from my colleague the Minister for Health and convey it to the member.

#### SEWAGE RECYCLING

**The Hon. ELAINE NILE:** My question is addressed to the Minister for Public Works and Services, representing the Deputy Premier, Minister

for Health, and Minister for Aboriginal Affairs. Is it a fact that the South Australian Government is considering recycling sewage for drinking water? Does the New South Wales Government have plans to recycle sewage for drinking water?

**The Hon. Dr B. P. V. Pezzutti:** Don't put your foot in it!

**The Hon. R. D. DYER:** I would hope not. I believe the answer to this question to be no. I realise that this is a serious question. Personally I would not view with equanimity the prospect of consuming recycled sewage. However, the Hon. Elaine Nile says that this is happening in South Australia. If that is the case, I will refer the question to the Minister for Health and convey his response to the honourable member.

#### DEPARTMENT OF COMMUNITY SERVICES PLACEMENTS

**The Hon. PATRICIA FORSYTHE:** My question is directed to the Attorney General, representing the Minister for Community Services, Minister for Ageing, and Minister for Disability Services. Can the Minister explain why the Department of Community Services placed a 22-year-old man with an intellectual disability into a boarding house at Burwood without appropriate supervision, given the man's history, especially his tendency to wander onto the streets?

Given the fact that in the week he was placed at the boarding house he wandered away on at least three occasions and on one occasion had to be pulled out of the surf at Cronulla, will the Government now provide adequate supervision for the man and place him in appropriate supported accommodation? How does the Minister rationalise the decision of the Department of Community Services to make use of boarding-house facilities to place people with a disability while the Ageing and Disability Department has set itself on a course of closing all boarding houses?

**The Hon. J. W. SHAW:** On the assumption that the department can identify the particular case to which the honourable member refers, I shall obtain an answer to her question. The latter part of the question raises more general policy considerations, and I am sure that there will be no difficulty in obtaining a response to them.

#### INTEGRATED TOTAL WATER CYCLE MANAGEMENT PLANNING

**The Hon. I. COHEN:** I ask a question of the Minister for Public Works and Services, representing

the Minister for Agriculture, and Minister for Land and Water Conservation. Given the Codd inquiry's recommendation that the sewerage situation is a matter of urgency, what action has the Department of Land and Water Conservation taken to develop detailed guidelines for integrated total water cycle management planning on a catchment basis?

**The Hon. R. D. DYER:** I shall obtain a response from my colleague the Minister for Land and Water Conservation and convey it to the honourable member.

#### **PUBLIC HOUSING BURGLAR ALARMS**

**The Hon. C. J. S. LYNN:** I address my question to the Treasurer, representing the Minister for Urban Affairs and Planning, and Minister for Housing. Is the Minister aware that in my area of Campbelltown home burglaries are extremely common and generally centre on housing commission homes? The people living in those areas are finding that they are unable to leave their homes for more than a couple of hours without returning to a smashed window and a lost television. Will the Minister give an undertaking that burglar alarms will be fitted to housing commission homes in the Campbelltown area to assist in the reduction of break-ins, so that people who must rely on the Government for housing can at least feel that their personal possessions are safe?

**The Hon. M. R. EGAN:** I shall refer this question to my colleague the Minister for Urban Affairs and Planning, and Minister for Housing.

#### **CENTRAL COAST CANCER PATIENT TRANSPORT**

**The Hon. M. J. GALLACHER:** I ask a question of the Minister for Public Works and Services, representing the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs. Is the Minister aware that the central coast cancer patient transport bus, operated by the New South Wales Ambulance Service, has been deemed unsuitable for its intended purpose as it is too expensive to run? Is the Minister further aware that ambulances are now used to transport patients between their homes and the radiotherapy unit at Gosford? Will the Minister undertake to do everything he can to assist in expediting the sale of the bus, if this is deemed appropriate, and support the immediate purchase of two smaller buses to continue this vital service to residents of the central coast?

**The Hon. R. D. DYER:** I shall obtain a response from the Minister for Health and convey it to the honourable member as soon as possible.

#### **GRIFFITH HOUSING**

**The Hon. D. J. GAY:** I ask a question of the Treasurer, Minister for State Development, and Vice-President of the Executive Council, representing the Minister for Regional Development. Is the Minister aware that the managing director of Murrumbidgee Estate Development—Griffiths largest private urban land development company—has criticised Harry Woods over the government release of Crown land at Collina as a solution to housing availability? Is he further aware that the managing director has been quoted as saying that Griffith needs a government commitment to infrastructure, including drainage, water, sewerage and roads, instead of a replication of what the private sector is already doing in land development? What will the Government, and Harry Woods in particular, do to ensure that Griffith does not suffer under such duplication?

**The Hon. M. R. EGAN:** I shall refer this question to my colleague the Minister for Regional Development, and Minister for Rural Affairs for a response.

#### **ELECTRICITY CORPORATIONS PERFORMANCE**

**The Hon. J. H. JOBLING:** My question is addressed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Given the continued uncommercial behaviour of New South Wales electricity corporations, as exemplified by, first, the Redbank debacle, with \$750 million in damages, second, the Victorian Supreme Court action between Powercor and Pacific Power, concerning 12 supply contracts valued at \$625 million, and, third, legal action between Ravensworth and Macquarie Generation, what action is the Minister taking to ensure that New South Wales taxpayers do not have to foot the bill in legal expenses, damages and reduced dividends to the Government?

**The Hon. M. R. EGAN:** From time to time commercial organisations such as the electricity utilities will be engaged in commercial litigation. No-one could expect other than that.

#### **PUBLIC HOUSING SMOKE DETECTORS**

**The Hon. C. J. S. LYNN:** My question is to the Treasurer, Minister for State Development, and Vice-President of the Executive Council, representing the Minister for Urban Affairs and Planning, and Minister for Housing. Many housing commission homes in my area of Campbelltown are fitted with smoke alarms. Unfortunately the alarms are outdated, battery-operated devices that require

ongoing replacement of batteries, which is not being carried out. Will the Minister give an undertaking that smoke alarms in housing commission homes in Campbelltown will be upgraded to eight-amp. alarms connected to the fuse box of the house?

**The Hon. M. R. EGAN:** I will tell the Hon. C. J. S. Lynn about my experience with smoke detectors later.

#### **MOTOR VEHICLE COMPLIANCE PLATES**

**The Hon. J. W. SHAW:** Earlier in question time Reverend the Hon. F. J. Nile asked me a question concerning unencumbered vehicles. The Register of Encumbered Vehicles, which, as most honourable members of the House would know, has existed in New South Wales since 1986, has had two developments that make it even more useful in protecting motor vehicle buyers. The first is that the connection of the REV's database with the information held by the Roads and Traffic Authority. Access between those databases became operational on 13 May 1998 and improves the system. Second, I am told that all mainland jurisdictions have now linked their computerised encumbered vehicles registers. South Australia was the latest link, having joined in February 1997, and efforts are still being made to link Tasmania with that database.

#### **COURT DELAYS**

**The Hon. J. W. SHAW:** Yesterday the Leader of the Opposition asked me a question without notice about court delays. I now provide the following answer:

Further to the response I gave to the House yesterday, I have now received advice in relation to this matter from the Office of the Director of Public Prosecutions. I am advised that Mr Martin has withdrawn his application for bail, originally scheduled for the Supreme Court today, following the revocation of his bail on 20 August 1998. I am further advised by the Office of the Director of Public Prosecutions that the Crown will endeavour to have the matter listed in tomorrow's call-over. If the matter is listed in tomorrow's call-over I am informed the trial could take place as early as February 1999. Should it not be placed in that call-over the Office of the Director of Public Prosecutions expects that the earliest trial date will be July 1999.

I do not suggest that I am satisfied with even this period elapsing between the committal and the commencement of the trial. However, I can assure honourable members that action is being taken by the Government, in conjunction with the Supreme Court and all involved in the justice system, to bring down delays in the higher courts. The Supreme Court has increased its rostered sittings in the criminal jurisdiction by about 30 per cent compared to 1997. This is being assisted by the Government transferring a significant portion of the Supreme Court's personal injury civil jurisdiction to the District Court.

The Chief Judge at Common Law, Justice Wood, is also implementing progressive changes to the management of those cases, including an early arraignment to ensure that trials are ready to proceed at the earliest possible time. The former Chief Justice also took advantage of the opportunity provided by the Government's 1997 amendments to the Criminal Procedure Act which allow directions to be given concerning the types of cases it will hear. Effectively, the Supreme Court now only tries prosecutions for murder. The removal of long Commonwealth drug trials from the Supreme Court means that the resources of the Court can be focused on these most important of cases. The Government continues to do its part. In 1998-99 an additional \$613,000 in temporary assistance is being provided to the Supreme Court to supplement its efforts to reduce backlogs and delay in the criminal case load. Beyond these initiatives, the Government appreciates that ever increasing numbers of judges is not a complete answer. There must also be an effort to ensure that all those involved in the criminal justice system, both prosecution and defence alike, are doing their part.

**Questions without notice concluded.**

#### **REGULATION REVIEW COMMITTEE**

##### **Report**

**The Hon. Janelle Saffin**, on behalf of the Chairman, tabled report No. 16/15 entitled "Report on the Pawnbrokers and Second-hand Dealers Regulation 1997", dated September 1998.

**Ordered to be printed.**

*[The President left the chair at 1.03 p.m. The House resumed at 2.30 p.m.]*

#### **STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS**

##### **Report on Person Referred to in the Legislative Council**

**The Hon. Dr Meredith Burgmann** tabled report No. 7 entitled "Report on Person Referred to in the Legislative Council: Hon. Justice Sheahan", dated September 1998.

**Ordered to be printed.**

**Suspension of standing orders, by leave,  
agreed to.**

**The Hon. Dr MEREDITH BURGMANN**  
[2.30 p.m.]: I move:

That the House adopt the report.

This is the first report of the Standing Committee on Parliamentary Privilege and Ethics that has recommended that a right of reply be accorded to a person who claims to have been adversely affected

by being referred to in the Legislative Council. On 3 September 1998 the President received a letter from Justice Terry Sheahan relating to remarks made by the Hon. Franca Arena in the Legislative Council. The President referred the letter to the committee as a submission under the resolution of the House of 13 November 1997 concerning a citizen's right of reply. The committee considered the submission, and recommended:

That a response agreed to by the Honourable Justice Terence William Sheahan, in the terms specified at Appendix 1, and agreed to by Justice Sheahan and the Committee be incorporated in *Hansard* and the *Minutes of the Proceedings of the Legislative Council*.

If the House adopts the report, Justice Sheahan's response will be incorporated in *Hansard*. The committee reminds the House that in matters of this nature it does not judge the truth or otherwise of statements made by honourable members or persons. Rather, it ensures that a person's submission and ultimately the response it recommends accord with the criteria set out in the House's resolution of 13 November 1997, referred to earlier.

**The Hon. J. P. HANNAFORD** (Leader of the Opposition) [2.35 p.m.]: This matter has come before the House by leave because the Opposition was not given previous notice of it. Like other honourable members, I was reading the committee's report while the Hon. Dr Meredith Burgmann was speaking, although I acknowledge that I have had the benefit of correspondence from Justice Sheahan on this matter. I support the committee's recommendation that a response by Justice Terry Sheahan in the terms specified in appendix 1 and agreed to by Justice Sheahan be incorporated in *Hansard* and the minutes of proceedings.

In a letter to me Justice Sheahan conveyed the terms of a document that he forwarded to the President. I wrote to the President stating that I supported the approach taken by Justice Sheahan, that is, that the matter be dealt with by way of a citizen's reply. When this motion was amended on 1 July I specifically addressed the reasons for the amendment. I took the view that it was the role of the House to protect the reputation of those who could not be protected by other measures, that is, members of Parliament and the judiciary. At that time I specifically excluded Mr Della Bosca and Mr Sheahan in the belief that Mr Sheahan was not a judge. His Honour wrote to me to correct my misunderstanding.

I regret that I was under that misapprehension at the time. If I had not been I would have moved an amendment to include Justice Sheahan in the

approach adopted by the Parliament because that would have been the appropriate way to deal with the matter. When I received Justice Sheahan's letter to me stating that he had written to the President seeking a citizen's right of reply I wrote back to him stating that in the circumstances that had prevailed, that was an appropriate approach and I would support it, as I have done.

Because of the important nature of this matter I wish all honourable members had been given the opportunity to read the report by the Hon. Dr Meredith Burgmann and the judge's reply because this matter should not be considered lightly in the circumstances that have prevailed. That is the background to the matter, as I understand it. The committee's recommendation is appropriate and the coalition supports it.

**The Hon. P. T. PRIMROSE** [2.38 p.m.]: The Leader of the Opposition said that a copy of the report was not made available before this debate began. I understand that the standing orders do not provide for such reports to be made available in advance of a debate. If the standing orders had allowed, I am sure a copy of the report would have been provided to honourable members.

#### **Motion agreed to.**

*Pursuant to the resolution the response of the Hon. Justice Sheahan was incorporated.*

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Mrs Arena alleged in her speech in the House on the evening of 17 September 1997 that Justice Terence William Sheahan, as the then NSW President of the Australian Labor Party, had attended a meeting at Parliament House, with the Premier, the Party's General Secretary, and other ALP identities, on the evening of Sunday 24 March 1996.

The Reports of the Hon. John Nader RFD QC and the Standing Committee on Parliamentary Privilege and Ethics have both concluded that Mrs Arena was indeed alleging that ALP figures at the alleged meeting, including me, at least condoned approaches being made by the Premier to the Leader of the Opposition and to Justice James Wood, to secure the suppression of the names of prominent people, identified to or by the Wood Royal Commission, as paedophiles.

These and other allegations made by Mrs Arena in her speech have been accepted by the resolution of the Legislative Council on 1 July 1998 as amounting to imputations of "a criminal conspiracy".

The morning after Mrs Arena's speech I wrote to the Attorney General in the following terms:

Accepting the constraints on my responding personally to published allegations involving me, I am writing to you to place on public record my categorical denial of ever attending any meetings or having any discussions with any

person, let alone the Premier or the others apparently named, to secure any cover-up at all of any alleged criminal or other improper behaviour by any person.

On 22 September 1997 I said in a further letter to the Attorney:

Obviously I am deeply concerned about these allegations and their impact, not only on me and my family but also on this Court and its Judges and assessors, not to mention Wood J, the Premier and others Mrs Arena implicated.

In my sworn evidence to the Nader Inquiry I denied, "in most emphatic terms", the allegations in, and the imputations from, Mrs Arena's speech.

I gave evidence that I was in Ryde and Parramatta on the evening of Sunday 24 March 1996, and Mr Nader specifically said in his report that he had "no doubt" that my "significantly corroborated" evidence was "true". I also specifically denied any possible involvement in any meetings or discussions along the lines of Mrs Arena's allegations, at any time or place.

Mr Nader's Inquiry reported on 7 November 1997 and found that Mrs Arena's allegations were "false in all respects", and that there was nothing "amounting to evidence in the strict sense that could have provided to any reasonable person acting in good faith any justification whatsoever for these claims, or any part of them".

The Standing Committee on Parliamentary Privilege and Ethics, in its Report tabled 29 June 1998, concluded that "Mrs Arena's speech cannot be understood as conveying anything other than very serious allegations", and "would be reasonably understood by the media and the community to mean", that I participated in a meeting "to plan the suppression of names of individuals allegedly being investigated by the Royal Commission into the NSW Police Service".

The Committee found that her allegations were untrue, that they were without any reasonable foundation, and that they were extremely hurtful and damaging to the reputation of each alleged participant.

An apology and withdrawal of the allegations in the terms resolved upon by the Legislative Council on 1 July 1998 is imperative for the following reasons:

1. At the time the allegations were made by Mrs Arena in the Legislative Council I was (and remain) a serving member of the judiciary (specifically, a judge of a superior court of record).
2. The unfounded allegations by Mrs Arena, so long as they remain on the record, continue to threaten and undermine the full public confidence which the community is entitled to have, and, indeed, must have, in members of the judiciary, and, in this particular, in myself as a judge of the Land and Environment Court of New South Wales.

Mrs Arena made her allegations in her capacity as a Member of the Legislative Council, and their withdrawal is demanded by important aspects of public interest regarding the judiciary.

I note in this regard the express finding by Mr Nader that the attack on those named damaged not only their personal reputations, but also the public offices they occupy.

Accordingly, both as a question of Mrs Arena's public responsibility, and in accordance with the requirements of decency, nothing less than a complete withdrawal of the allegations will repair the damage resulting from them.

It would appear that I was deleted from the list of people to benefit from the Legislative Council's resolution, in the mistaken belief at the time of the vote that I was not a Judge when Mrs Arena made her allegations in the House.

As Mrs Arena suggested, in her submissions to the Standing Committee, that the meeting she alleged I attended took place "on about 24/3/96" and possibly at a location other than Parliament House, I should repeat what I said in my first letter to the Attorney General, namely, that at no stage have I ever been involved in any discussions with any person to secure the objective I was alleged by Mrs Arena to have supported.

Although both the Nader and Standing Committee Reports have completely vindicated my denials and my evidence on these matters, the allegations against me remain on the Parliamentary record, and it is entirely appropriate, in the interests of my family, the Court and myself that they should be corrected by the incorporation of this statement in the Minutes of the proceedings of the House and in the Hansard.

Justice Terry Sheahan  
September 1998

## ALCOHOLIC BEVERAGES ADVERTISING PROHIBITION BILL

### Second Reading

#### Debate resumed from an earlier hour.

**Reverend the Hon. F. J. NILE** [2.40 p.m.]: The Alcoholic Beverages Advertising Prohibition Bill has been on the agenda for some time. Usually it takes literally years for a private member's bill to be debated in the House. I am well aware that the House will vote on my bill, and I am happy to accept the result of the vote when it takes place. As I said at the beginning of my speech, I had not anticipated that vote taking place today. I always thought that as the member who introduced this private member's bill I would decide, with the co-operation of the House, when the vote takes place. However, by voting against my motion to adjourn the debate until the next sitting day, members on both sides have decided that the House will vote on this bill today.

I could take advantage of the situation and continue to talk until 4.15 p.m. That would achieve the same purpose as adjourning the debate. However, as I have been forced to speak in reply, other members cannot contribute to the debate. The Hon. I. Cohen has asked me questions about the bill, and other honourable members are still examining it. I have always said that it is possible to amend a bill

in Committee. Private members' bills obviously comprise measures that are important to those who drafted them, but I have always accepted amendments to my bills so long as they do not destroy the main principle of the bill.

When I finish my remarks the House will vote on the bill. I give notice that if it is defeated, next week I will reintroduce the bill in a simpler form. In other words, my bill will not go away. If honourable members think that defeating the bill will result in its removal from the agenda they are mistaken. There is much support for the principle of the bill. I have not yet collated all the correspondence I have received in support of it because I did not expect the debate to be called on today. There is a great deal of community and church support for the bill. In a letter to me dated 8 April the Presbyterian Church of Australia stated:

Our Committee considered your "Alcoholic Beverages Advertising Prohibition Bill" at its last meeting. The Church & Nation Committee agreed to offer "in principle" support of the Bill.

That is a positive response. Indeed, I have received no negative response to the bill. The Christian City Church is very active, but Pastor Phil Pringle wrote me a letter in support of the bill. Attached to his letter were copies of letters he had sent to Mr Carr and Mr Collins, and he is happy for them to be read onto the record. In his letter to Mr Carr he said:

I write in support of Rev Fred Nile's "Alcoholic Beverages Advertising Prohibition Bill". In my twenty years as a minister I have seen the dire effects of alcohol on families and individuals, and the wider effect on society. The implementation of this Bill could only have a positive effect, for our nation's youth in particular, who are so powerfully influenced by advertising.

Please consider supporting and voting for this Bill in the light of our nation's future.

On 17 March this year the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs wrote to me and to the Hon. Elaine Nile expressing concern about alcohol-related violence and crime community resource. Dr Refshauge said:

The NSW Government is committed to reducing the harm that can occur due to alcohol misuse. To address this issue, the NSW Health Department has developed the attached resource for communities to address the harmful effects of alcohol in the place where it occurs, in their own communities.

He concluded:

Assaults, road accidents, damage to property and excessive noise can affect all our lives and the communities in which we live. It is only by the Government and local communities working together that the harmful effects of alcohol misuse can be reduced.

That letter almost supports the Alcoholic Beverages Advertising Prohibition Bill. The letter enclosed resource material including an article entitled, "Had Enough? Alcohol-related violence and crime. What you and your community can do about it". Apparently the community can do as much as it can, but the Government will not do anything to take steps to reduce the advertising campaign in regard to alcohol. The Government saw logic in reducing tobacco advertising but cannot see similar logic in reducing alcohol advertising. Another matter that concerns me, and it should concern Dr Refshauge, is the rate of hospital admissions for alcohol-related health problems. The Australian Institute of Health and Welfare, Canberra, recently released its report entitled "The sixth biennial health report of the Australian Institute of Health and Welfare". Referring to excess alcohol consumption the report stated:

Like tobacco, alcohol is associated with considerable mortality and morbidity in the Australian community, accounting for an estimated 3,600 deaths and 86,000 hospital admissions in 1995.

I referred earlier to the estimate of one in 10 hospital beds being occupied by patients admitted for treatment of problems with the liver, kidneys and other organs because of the effects of alcohol consumption. The report continued:

Alcohol abuse also results in lost productivity, with 5% of regular drinkers (those who drink at least once a week) reporting missing days from work or study during the previous three months due to use of alcohol, at an average of 1.5 days per person.

One would have thought that the coalition would be concerned particularly with the effect on industry of lost productivity. The report further stated:

Alcohol-related crime and social problems are a further burden on the community. As a result of alcohol consumption, in 1995 an estimated 34% of the population were subjected to verbal abuse, 9% were physically abused, and 15% were the victim of property theft or damage.

Many accusations have been made, which I support, against those who use illegal drugs such as heroin and marijuana robbing people and/or breaking into homes for the purpose of stealing. However, this report states that 15% of crime was not related to illegal drugs but to alcohol. The report concluded:

Short-term effects include poor coordination and judgement leading to traffic accidents—

I have not stressed that point—

and other accidents; vomiting; and unconsciousness. Long-term effects include liver, brain and pancreas damage, heart and blood disorders, gastrointestinal ulcers and loss of memory.

Surely honourable members from both sides of the House would be concerned with those statistics. Another report on this topic is entitled "National Drug Strategy Patterns of Drug Use in Australia". Honourable members have expressed concern at the impact of illegal drugs, but this national drug strategy report deals with alcohol. The Greens, the Australian Democrats and other political parties have been critical of tobacco consumption and excessive alcohol consumption, and that is borne out in the report. The report stated on page 13:

Alcohol is the most widely used drug in Australia. It is the drug most people are likely to have been offered; it is the drug they are most likely to have tried; and it is the drug that they are most likely to consume on a regular basis. Its use is endemic in our society; our cultural norms and values ensure its continuing acceptance and use across a wide range of social groups; and exposure to the drug occurs at a relatively young age.

On page 28 the report refers to the particular age group that I believe is directly affected by alcohol advertising. It stated:

The legal age at which individuals can purchase alcohol is 18 years of age. These data indicate that a majority of 16 and 17 year olds consume alcohol with around one quarter of them being classified as regular heavy drinkers. About one third of 14 to 15 year olds report that they have tried alcohol and around one in three is classified as a moderate drinker. The data would suggest that the real change in drinking patterns does not occur around the legal age but two years earlier, at about 15 to 16 years.

Why are alcoholic beverages heavily advertised? Heavy advertising of alcohol may not have an impact on members of Parliament in their senior years who have developed habits, but it has an impact on young people developing their lifestyle patterns. Heavy advertising campaigns have a detrimental effect on our youth in the 15- to 16-years age group. Surely members of Parliament must agree to solve the problem. On 9 December 1997 the *Bulletin with Newsweek* published a major report entitled "Drowning by Numbers". The report stated:

83% PROOF: More than eight in 10 substance-abuse deaths each year among Australians aged 15-19 are alcohol-related, proving the demon drink (rather than the much more demonised heroin) is by far our deadliest youth drug.

The report stated further:

... NDARC spokesman Paul Dillon believes policy makers are reluctant to tackle alcohol abuse, not only because it is a major source of government revenue—

raising more than \$3.083 billion in 1995-96—

but also because alcohol is such a fundamental part of Australian culture. "Alcohol is a socially accepted drug," Dillon says. "Boys haven't become men unless they get drunk

and throw up. Governments wouldn't be seen to be doing the right thing if they didn't attack heroin, whereas alcohol and tobacco are part of the culture and the economy.

Advertising helps to maintain in society the attitude that if alcohol is advertised so widely it must be a socially accepted drug; heroin and marijuana are not advertised, so they are socially unacceptable. If alcohol advertising were phased out over a five-year period, we would notice a dramatic improvement in our youth. Surely that is a priority for all honourable members.

Sadly, because women have more freedom today, tobacco and alcohol are becoming a major problem for them. On 20 November 1997 the *Australian* reported the first research of its kind on drinking habits of women aged 18 to 24. It showed, surprisingly, that women in that age group are just as prone to regular binge drinking sessions as males of the same age, and that quantity often counts for more than quality when it comes to a choice of beverages.

I would think the female members of this House would be most concerned about the impact of advertising on women in that age group, and that is another reason to support the bill. If honourable members vote against the bill they are inconsistent. They supported the Tobacco Advertising Prohibition Bill, and it could be argued, as I believe I have argued today, that alcohol has an even more harmful impact on our society than tobacco. How can members prohibit the advertising of one product but not the other? The two go hand in hand. Alcohol and nicotine products should be treated in the same way. The self-regulation policy is not sufficient. It is a step in the right direction, and I believe it is the response of liquor companies to my campaign to prohibit alcoholic beverage advertising.

Self-regulation is not working, either on television or on the radio, because a conflict exists between business and community interests. The main interest of those companies is making a profit, and profit will override their social concerns. Therefore, Parliament has to safeguard the social concerns, and that is why we have governments and elected members of Parliament. We do not have a vested interest. We are concerned with the welfare of the community, not with profits; not even with the tax revenue from the sale of alcoholic beverages, which I know would be in the Treasurer's mind.

**The Hon. M. R. Egan:** We do not get it any more.

**Reverend the Hon. F. J. NILE:** I know. The Treasurer can support the bill, because he has

nothing to lose. Members on both sides of the House can take the next step and prohibit the advertising of alcoholic beverages. That step could be implemented over a five-year period. If honourable members believe that some parts of the bill are extreme, they can be debated in Committee and the bill amended to remove them. I know I am a radical conservative and perhaps I try to achieve too much in legislation, but I suppose all honourable members endeavour to do that when they follow their principles. I am happy to discuss amendments to the bill—certainly to delete the reference to local option, and perhaps other matters.

I would prefer the bill to be passed at the second reading and debate adjourned to allow consideration of amendments, which could be debated in Committee at a later stage, as it was with the Tobacco Advertising Prohibition Bill. I plead with all honourable members to vote for the second reading of the bill and agree to adjourn the debate to allow for discussion of amendments. Further debate could be postponed for two or three weeks to allow detailed discussion on amendments, which I will be happy to consider.

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

**The House divided.**

**Ayes, 6**

Mrs Arena  
Mr Corbett  
Mrs Nile  
Mrs Sham-Ho  
*Tellers,*  
Rev. Nile  
Mr Tingle

**Noes, 26**

Mr Bull	Mr Kersten
Dr Burgmann	Mr Lynn
Ms Burnswoods	Mr Manson
Dr Chesterfield-Evans	Mr Obeid
Mr Dyer	Dr Pezzutti
Mr Egan	Mr Primrose
Mrs Forsythe	Mr Ryan
Mr Gallacher	Ms Saffin
Miss Gardiner	Mr Samios
Mr Gay	Ms Tebbutt
Mr Jobling	Mr Vaughan
Mr Kaldis	<i>Tellers,</i>
Mr Kelly	Mrs Isaksen
Mr Kersten	Mr Moppett

**Question so resolved in the negative.**

**Motion negatived.**

## COALITION ONE NATION PARTY PREFERENCES

**Debate resumed from 4 June.**

**The Hon. J. M. SAMIOS** [3.12 p.m.]: The Hon. I. M. Macdonald has moved the important motion that this House condemn the Howard Government's totally inadequate response to continuing attacks on Australia's multicultural society by Pauline Hanson and her One Nation Party. The Hon. Helen Sham-Ho has moved an amendment to that motion, the essence of which condemns Pauline Hanson. I referred to the amendment when I spoke earlier in this debate. The coalition's record in support of immigration is one that all Australians can be very proud of. In so far as the motion of the Hon. I. M. Macdonald refers to Pauline Hanson and her sad comments on Asianisation and the Asian contribution—

**The Hon. M. R. Egan:** Which I would hope you would not support.

**The Hon. J. M. SAMIOS:** Which the coalition and I certainly do not support.

**The Hon. M. R. Egan:** And therefore you would condemn those National Party candidates who intend to give her preferences. Won't you condemn them?

**The Hon. J. M. SAMIOS:** I condemn all those who would take such racist opinions on the contribution of migrants, particularly Asians, to Australia. The coalition's record in dealing with the contribution of Asians to Australia has been most positive. It was the coalition that moved first to break the white Australia policy, for which we remember Arthur Calwell and his statement, "Two Wongs don't make a white." That was at a time not long after the Second World War. As a result of Harold Holt's initiative the Government subsequently moved to ensure that there was no such policy. The attitude of the Labor Party at that time and in the past towards the Asian community has been paradoxical. Whilst on the one hand the powerbrokers of the Labor Party frequently used to meet to make decisions in Chinese restaurants—

**The Hon. J. H. Jobling:** They still do, don't they?

**The Hon. J. M. SAMIOS:** —and still do, the Labor Party did not see fit to place the contribution of the Chinese community on the same par as that of any other Australian. Another great coalition contribution occurred during the time of Malcolm Fraser, following the contribution of the well-known former Prime Minister, the Hon. Gough Whitlam, who had surrounded himself with a number of

intellectual elites including Tom Uren. Tom Uren's attitude to Vietnamese migration included making comments in the Parliament about the way in which the Vietnamese were not really refugees but perhaps economic migrants, rather wealthy migrants who carried gold in their teeth and elsewhere when coming to Australia.

In the first year of Vietnamese migration to Australia, in which Vietnamese migrants numbered around 400 or perhaps 600, a Labor government was in office. In Fraser's time Asian immigration, and Vietnamese immigration in particular, on a refugee basis increased to 12,000 or more annually. That is surely somewhat of a contrast. I was pleased to be appointed to two of Michael Mackellar's committees dealing with migration, one of which was the refugee committee. I am well aware of the contribution of coalition governments to the resettlement of Vietnamese and other refugees in Australia. The coalition parties have continually blazed the trail in support of the Asian contribution to Australia and the resettlement of Asians as Australians.

The history of the Chinese community precedes the gold rush era. The Chinese arrived in significant numbers and played an important role in the social and cultural development of this society. However, other nations have played an important role in the settlement of Australia. For example, the Afghans blazed the trail with the overland telegraph line and were the first Muslims to be involved in the development of this nation. The *Ghan* train service takes its name because of the important role the Afghan community played in the development of the overland telegraph line.

I raise these points because it is important to set the scene in relation to the contributions of the coalition to the so-called Asianisation of Australia, an issue taken up by the One Nation Party. The Hon. I. M. Macdonald referred to statements made by Pauline Hanson and took issue with them. I support him in that regard. When speaking about Asian immigrants Ms Hanson said, "They have their own culture and religion, form ghettos and do not assimilate." The Hon. I. M. Macdonald said that that is an outrageous statement, and I agree.

We want immigrants to integrate into our society, to relate to the core values of our society and to accept the Westminster system of government and parliamentary democracy, but to contribute their cultural values, language and customs. Australia benefits as a result of such integration. The immigration policy enunciated by the Menzies coalition Government in, I think, 1965 provided a

modus operandi for people to contribute their cultures and play an important role in the social and cultural development of this multicultural society.

One might compare the 200 ethnic groups in Australia with tributaries in a mainstream river: as their contributions flow into the mainstream river it changes. The process of integration honours the great contributions of early settlers from England, Wales, Ireland and Scotland, who played an important role in the development of modern Australia. Our modern folklore reflects the fact that we are a nation of immigrants. The Leader of the Opposition, Peter Collins, said that Australians have not woven that folklore into their history in the way that the Americans have. Debate on issues of this nature give honourable members the opportunity to reflect on the need for our folklore, our history and our cultural ethos; to reflect that we are a multicultural society, a nation of immigrants who have paved the way for a multicultural society to the benefit of this nation.

While I take great pride in mass immigration—there has been a bipartisan approach to this issue—I am saddened by the fact that in relation to Pauline Hanson the Australian Labor Party has broken ranks and moved away from a bipartisan approach, and has sought to make political capital for no purpose other than the Federal election. The Australian Labor Party has seen fit to try to reflect on the contribution of the coalition Government in this area, which is a sad state of affairs. The sooner the ALP moves in tandem with the coalition in relation to multiculturalism the sooner issues will be resolved. Some people in the political arena have experienced aberrations in relation to Pauline Hanson.

**The Hon P. T. Primrose:** Do not call them aberrations, they are your coalition colleagues.

**The Hon. J. M. SAMIOS:** What about Campbell?

**The Hon. M. R. Egan:** We expelled him!

**The Hon. J. M. SAMIOS:** Graeme Campbell ran wild for 20 years before the Australian Labor Party had the intestinal fortitude to expel him from the party.

**The Hon. M. R. Egan:** You should be ashamed of yourself.

**The Hon. J. M. SAMIOS:** I could say the same of your party. I refer to the contribution of the coalition in relation to racial harmony and equality

of opportunity. The former coalition Government amended the Anti-Discrimination Act to provide sanctions for racial vilification, amendments that were supported by the then Labor Opposition. That is a good example of how this Parliament provided a modus operandi for the people of New South Wales in relation to racial vilification, which has been replicated in various forms by other States.

This State, with the oldest Parliament in Australia, introduced sanctions—both civil and criminal—in its amendments to the Anti-Discrimination Act. I acknowledge that Neville Wran introduced the Act. We were moving together in harmony on important issues, although there was tension and debate—as there should be. We saw fit to break ranks, unfortunately to the benefit of Pauline Hanson and her One Nation Party, which gained 10 members in the recent Queensland election. If the coalition and the Australian Labor Party do not get their act together they will face a bigger challenge.

I refer to the contribution that people from countries such as Ireland, Scotland, Italy and Germany have made to this country. For example, the Irish assisted in the development of the interstate railway line—in fact, many lost their lives. Their efforts have not received sufficient accolades, but that part of Australia's history has yet to be written. The contribution of the Italians in north Queensland—a remarkable achievement—was fraught with social tension. The Germans helped to establish the wine industry in the Barossa Valley. The Italians contributed to the development of the Murrumbidgee Irrigation Area—tensions were involved in that resettlement. The Greeks, Chinese and many other nationalities have contributed to the development of Australia.

**The Hon. M. R. Egan:** Don't forget the Irish.

**The Hon. J. M. SAMIOS:** I mentioned the Irish in relation to the interstate railway line. The Irish and the Scottish contributed to the development of the Australian education system. I take pride in the fact that I was taught by Irish nuns, the Sisters of Mercy, in Dalby and Brisbane. The Scots also played an important part on the land. After 200 years of white settlement, approximately one-third of the Australian population is of non-English speaking background, representing 200 ethnic groups, speaking 150 languages and providing a social cohesion of which we can be proud.

Occasional social tensions have presented themselves, as one would expect from a country comprising 200 ethnic groups and with a fast

changing demography following the Second World War. However, we must attempt to understand each other and the problems that occur. It is sad that people in the political arena—not just in the Australian Labor Party but elsewhere—have sought to capitalise on the Hanson factor. The Leader of the Opposition, Peter Collins—

**The Hon. M. R. Egan:** Not for very long.

**The Hon. J. M. SAMIOS:** The Leader of the Opposition will become Premier next March. The Treasurer will get an invitation to the victory party.

**The Hon. R. D. Dyer:** Will I get an invitation?

**The Hon. J. M. SAMIOS:** Yes, the Minister for Public Works and Services will be invited. Peter Collins has been unequivocal about where to place the One Nation preferences: at the bottom of the ticket. He has stuck to his guns. He has set an example for all of us. Not only has Peter Collins made that statement, but he has spoken to ethnic groups at length—particularly to Asian groups—to ensure that they understood his statement and that it was well received. If members of this Parliament do likewise I am sure that the Hanson contribution to the political arena will be appropriately resolved.

Today immigration is challenged because of the economic conditions facing the nation. The forces against immigration will win if we do not take a stand. We are a nation of immigrants and immigration is a necessary transfusion for the nation; it is a resource we will need for many years to come. People who seek to reduce or to wipe out immigration on the basis of alleged Asianisation are not doing the country any good. The Hon. I. M. Macdonald referred to the words of Arthur Calwell. That was paradoxical because Arthur Calwell, the first Australian Minister for immigration, played an important role in the establishment of the mass immigration program. Sadly, he suffered an aberration when it came to Asian immigration.

**The Hon. Franca Arena:** Two Wongs don't make a white.

**The Hon. J. M. SAMIOS:** Yes, I recall the famous case. The Hon. I. M. Macdonald stated:

Ms Hanson referred to people from Japan, India, Ceylon, and "every new African nation". She quoted Arthur Calwell and said:

[they] are fiercely anti-white and anti-one another. Do we want or need any of these people here? I am one red-blooded Australian who says no . . .

Generations of people have come to Australia from such countries and they have played a pivotal role as Australians. Unfortunately, they must be feeling insecure because of the nonsense that is being thrown about by Pauline Hanson and her One Nation Party. I forcefully make the point that it is up to all members of Parliament to assure the community that racist statements that tend to deprecate the role of other people have no place, no truck, with well-meaning Australians.

The reality is that we have taken pride in our ideals, in our democracy, in our Parliament, in our social cohesion, and in the achievements that we have made over 200 years. Those achievements have come through the contributions of Australians of culturally diverse backgrounds, and we should not forget that. The amendment proposed by the Hon. Helen Sham-Ho should be supported. If it is carried by the House, I am certain that the political parties of this State and nation will find the same road and travel together in harmony on this very important issue: the social cohesion of our multicultural society.

**The Hon. FRANCA ARENA** [3.41 p.m.]: It gives me pleasure in this debate to follow my distinguished colleague the Hon. J. M. Samios. The honourable member and I have been involved with this issue for at least 20 years. The bipartisanship of which he spoke has always flourished in our relationship. We have always understood that party politics should not treat people as pawns. I am glad that, looking back at some of our leaders—whether Wran, Greiner, Whitlam or Fraser—there was always bipartisanship in our relationships regarding immigration.

When I left the Labor Party I was facing hundreds of thousands of dollars in legal bills. One day my husband Joe answered a telephone call from Mr David Oldfield. We had been living in Manly for the past 35 years and had seen David Oldfield around the area. I am glad that my husband took the call because he is a gentleman, while I have a typically Latin temperament and most probably would have told David Oldfield where to go. David Oldfield said to my husband, "We see that you have got a lot of problems. Franca is now an Independent. How about joining us? We've got plenty of money to pay for your legal fees." My husband responded, "No, thank you. I am sure my wife would not be interested. Don't call us, we'll call you." As I said, I am pleased I did not answer the telephone because I would have told David Oldfield and the One Nation Party where to get off the bus, because I do not believe in politics of hatred or division.

I will not support the motion, but I will support the amendment because I believe that it would have been difficult for Mr Howard, when confronted by this woman, to know that she would get the response that she did. It was perfectly acceptable at that time for Mr Howard to think that Pauline Hanson and One Nation would blow in on the wind and then fade away. I thought to myself, "She has no road to walk. She is one of those flukes of the political system, and she will disappear." Unfortunately, it did not turn out to be like that. So I give John Howard the benefit of the doubt. He most probably thought that the best way to handle the problem was not to accord her importance.

Who has given Pauline Hanson her importance? It is the media, by constantly reporting about her. She has had millions of dollars worth of publicity absolutely free: we have seen her in various dresses and so on. More photos of her appeared recently in the press—now she is said to have good legs! But what about her policies? What do we say about those? Absolutely pathetic! And divisive! It will be a sad day for Australia if One Nation members sit in Federal Parliament. That might happen both in the Senate and in the lower House.

I hope that what happened in Queensland was an aberration, but we will not have to wait long to find out. People were entitled to think, when Pauline Hanson first came on the scene, that she was just a political fluke. The more that was said about her, the more she gained in perceived importance. Probably the best way to deal with Pauline Hanson was to ignore her. In hindsight, that might have been the wrong decision. But, with hindsight, most of us can think of a lot of better and more appropriate things we could have said and done.

I have in my hand some documents from my files. One relates to the Meredith memorial lectures on immigration, on Thursday, 2 August 1984, 14 years ago, at the Glen College, Latrobe University, and notes "Mrs Franca Arena—immigration: An issue of national importance" and "Dr Frank Knopfmacher—Migrants and national identity". Another document refers to a public meeting at the Teachers Federation Hall in Sydney and is entitled "One Australia?—Immigration, Multiculturalism, Heritage" and notes "Speakers include Franca Arena MLC and Sir Colin Hines, State President of the RSL". The same issues are being raised again. We must constantly restate the importance of a multicultural society. Maybe even we who have advocated these concepts for many years make mistakes; perhaps we have not adequately

communicated the message to our fellow Australians. Something must have gone wrong somehow, somewhere.

In the early 1970s there was an acceptance of all these issues, and we saw the emergence of ethnic community structures such as the Ethnic Communities Council, the Ethnic Affairs Commission and ethnic radio. In 1977 I was fortunate enough to gain a Churchill fellowship, and for four months I studied in the United States of America, the United Kingdom and in Canada the issue of integration of ethnic groups. I looked at radio and television as a means of integrating groups. The first time I heard the word "multiculturalism" was in Canada. There it had significant importance because the French-speaking Canadians and English-speaking Canadians were called the two solitudes: those groups had not integrated, and were hoping that all the other groups would integrate one with the other.

The difficulties that we might have in Australia are not as great as the difficulties in Canada, where there is division between the French-speaking and English-speaking communities. The divisions are so deep that only a few years ago a referendum was held to determine whether French Quebec should assume a separate identity. Fortunately, that did not happen, and I hope it never will. But it is important to look at the global scene. These days very few societies in this world are homogeneous. My country of birth, Italy, was once a country that people left because there were no jobs. Now it has become a country of immigration, as have the North Africans and the Albanians. We have all seen the pictures on television of ships full of people arriving night and day. All these countries have become countries of immigration, including internal migration. People no longer want to be poor.

Only recently I saw a television program about Germany and its immigrants, including 1.5 million Turks, as well as people from Sri Lanka and India. Because of the poverty in the world, people are desperate to find a safe haven in which to raise their children. I do not blame them. If I were poor and hungry I would do anything to give my children a better future. So one cannot blame people for migrating. But governments must set rules, and Australia has.

As the Hon. J. M. Samios said, Australia's immigration program has been scaled down because of its economic situation. Australia also has a refugee program. About 12,000 immigrants arrive in Australia each year. They do not have to speak

English and they do not need a skill. By way of conscience money to the rest of the world, Australia pays for their trips. That is important because Australia is one of the wealthy countries. No matter how many problems we have, Australia is much wealthier than many other countries and it has a responsibility to the world community. It is good that each year Australia can tell the rest of the world that it accepts between 10,000 and 12,000 people who are being persecuted. The United Nations defines "refugee" as a person who is being persecuted for religious or political reasons. These people come to Australia to find a safe haven.

As Australians we are proud to tell the rest of the world that this is all part of our humanitarian program. The Federal Minister for Immigration and Multicultural Affairs, The Hon. Philip Ruddock, has a great understanding of the immigration program. He has enormous experience of immigration, including meeting people and planning policies. I have met him at many ethnic functions and meetings over the past 15 years. He would be one of the most knowledgeable ministers in the history of the Liberal Party. He was friendly with the late Mick Young, who was also an excellent immigration Minister. Mick Young always tried to adopt a bipartisan approach to immigration and invited the shadow minister to attend some of his meetings.

**The Hon. J. M. Samios:** Mick Young was on good terms with Ian MacPhee.

**The Hon. FRANCA ARENA:** Absolutely. Ian MacPhee was another excellent immigration Minister.

**The Hon. M. R. Kersten:** He was a nice bloke, too.

**The Hon. FRANCA ARENA:** The Hon. M. R. Kersten rightly says that he was a nice bloke. It is important to remember that our leaders have always nurtured bipartisanship. Whether it was Wran or Greiner at the State level and Whitlam, Fraser or Hawke at the Federal level, our leaders always endeavoured not to make immigration a political issue.

**The Hon. J. M. Samios:** Even trade union leaders like Albert Monk had a good rapport with immigrants in the 1960s.

**The Hon. FRANCA ARENA:** I remember Mr Monk very well indeed. He was a good person. He was one of the first trade union people to understand the significance of immigrants in our community. One of the last bastions of non-acceptance of

immigrants has been the trade unions, although they have changed enormously over the past 10 years. Generally, the unions closed their doors to immigrants because their members were afraid of losing their jobs to immigrants. Australia has always been a multicultural society. We must remember that 5.6 million people from 150 countries have arrived in Australia since the Second World War. That is an enormous number of people to integrate into society. As the Hon. J. M. Samios said, Australia's immigration policies have been extremely successful; there has been little tension.

People have said that none of the signs in Cabramatta are in English. It is important to remember that Australia has never had ghettos, where divisions occur. Problems arise when people are isolated in a ghetto and have no social mobility. When I arrived in Australia in 1959 Leichhardt was an Italian enclave, mainly because there were Capuchin priests at the church in Catherine Street, Leichhardt; and in the Italian community in those days the Capuchin priests were the social workers. Most Italian immigrants married by proxy. As they did not speak English—there were no interpreters then—and there was no-one else to help them, they would ask the priests to do the paperwork.

**The Hon. J. M. Samios:** The Italians at Leichhardt founded *La Fiamma*.

**The Hon. FRANCA ARENA:** The honourable member rightly says they founded *La Fiamma*. Dr Costanzo was the director of *La Fiamma* and later became the owner. He died a few years ago. God rest his soul. He is well remembered in our community. Leichhardt is no longer an Italian enclave. Many Italian businesses are still in Leichhardt but there are very few Italian residents because the houses are too small for them; they want huge places with columns, which everyone has seen. Over the years as the Italians have become more affluent they have moved to Haberfield, Five Dock and many other suburbs.

**The Hon. J. M. Samios:** In the east and the north.

**The Hon. FRANCA ARENA:** Exactly. The Hon. J. M. Samios knows that Marrickville was a Greek enclave. I do not know whether they established a church in Marrickville.

**The Hon. J. M. Samios:** Yes, they established a very big church.

**The Hon. FRANCA ARENA:** The Greeks congregated close to their church in Marrickville.

However, there are few Greeks in Marrickville now; they have all moved out. We have not had permanent ghettos in our cities. The Vietnamese and the Chinese who have settled in Cabramatta will eventually move. Indeed, the Chinese are everywhere. Some Chinese reside in my street; there are Chinese in Manly. They have never stayed in a ghetto. Some people have the idea that Chinese people live in an enclave and do not speak English. When people arrive in Australia it is much easier and more comfortable for them to speak their birth language. They eventually become bicultural and bilingual, but it takes time.

I often ask people how long it would take to learn Vietnamese, for example, if in different circumstances they had to migrate to Vietnam to give their children a better future. It would take a very long time. Why do they expect the Vietnamese, the Chinese and the Lebanese to learn English at the drop of a hat? People have said that migrants must be able to speak English. Those people should learn another language and see how difficult it is. Off the top of their heads they just seem to make unreasonable demands of immigrants. How many languages does Pauline Hanson speak? I know she speaks English—

**The Hon. A. B. Kelly:** Not very well.

**The Hon. FRANCA ARENA:** That explains why she does not understand. Learning a language is not just like entering a shop, asking the price of a chair, buying it, and taking it home. It is a lot more difficult. If it was that easy people would learn English much more quickly. It is absurd to think that Pauline Hanson should expect us all to be the same. The funny part about it is that she takes one step forward and then one step back. She attacked the Asians and the Aborigines but then said that she had a Vietnamese person working in her fish shop. That reminds me of people who used to say, "But some of my best friends are Jews." They kick Jews in the shin and then say that some of their best friends are Jews. It is the same kind of reasoning. I think some of Pauline Hanson's statements have done a small service for Australia. By that I mean—and I do not want to be misinterpreted—that she has made the major political parties more aware of the community.

I suppose I am one of the best judges of that now that I am an Independent member of Parliament after having been a party member for 25 years. I know how domineering the party executive can be and how easy it is for a political party to follow certain ways. Pauline Hanson has scared the daylight out of both Federal leaders, but in doing so

has done a small but important service to Australia by demonstrating that the parties must listen to the people.

Many times when I have watched Federal Parliament on television, whether it was Keating, Howard or Hewson speaking, I was ashamed of their behaviour in screaming their heads off and misbehaving in an abhorrent manner. But recently I have noticed that Mr Howard and Mr Beazley behave more appropriately, and I believe that is because they are scared of being criticised and are afraid of Pauline Hanson. I do not want to sound like Keating when he said, "It is the recession we had to have," but perhaps Pauline Hanson is an evil we had to have so that we would all unite and work to achieve a cohesive and harmonious society—because it does not just happen.

Recently I have sat down and engaged in a little self-examination of my behaviour and the issues I have followed over the years. Did we in the ethnic community push too far? Did we go too far with antidiscrimination? It is important that everyone undergoes self-examination. I do not believe we went too far but I do think we missed the bus by not communicating our message well enough. It is obvious that the community believes that Aborigines and migrants get more than ordinary Australians. The community myth is that refugees, particularly Vietnamese refugees, get free houses and interest-free car loans. I do not know where these myths stem from, but perhaps it was our fault because we did not work hard and long enough to ensure that the correct message was communicated.

We have witnessed the emergence of many smaller political parties, like the Unity Party. I thought I would give the Unity Party my vote at the next election because its Senate candidate, Jason Lee, appeared to be a nice young man. Jason is a young Chinese-Australian and a capable lawyer. I learned that he will give his preferences to the Labor Party. Lo and behold, who is heading the Labor Party ticket? Stephen Hutchins, the Labor Party trade union nonentity who has made his career by jumping from one chair to another! He has achieved nothing for anybody except himself.

**The Hon. M. R. Kersten:** Look at Jeff Shaw, the only decent man in the party, and they knifed him in the back.

**The Hon. FRANCA ARENA:** Exactly. It is typical. It would be difficult for this young man on the Unity Party ticket to gain the necessary 240,000-odd votes to be elected to the Senate. The very idea that my preference vote would go to Stephen

Hutchins is more than I could accept. If someone like the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading was standing for election to the Senate, I would not mind, but I certainly do mind about someone like Steve Hutchins. With all due respect to the gentleman, he will never get my vote.

**The Hon. C. J. S. Lynn:** You cannot use that word in association with his name.

**The Hon. FRANCA ARENA:** I agree, but I was trying to be kind. I have had more than enough trouble quoting people. I am being cautious these days.

**The Hon. C. J. S. Lynn:** You and Jeff should team up.

**The Hon. FRANCA ARENA:** I am surprised that the media has not picked up the issue. Nobody has said anything about what has happened to the Attorney General. Head office told the Left that the ticket should be exactly as it is. So he would be at the head of the ticket, Jan Burnswoods would be second, Ian Macdonald third and Meredith Burgmann would drop down the line. I have never heard such good news, but because I was afraid to hope that it would come true I kept it to myself until now. This information was leaked to me and I did not want to go on the record too early because I thought maybe they would find a way to restore her further up the list. I hope that good sense will prevail and that she will fall down the line into the drain, and maybe we will see her at the following election. I shall return to my remarks about our multicultural society.

This is all part of living in this lively society with diverse ideas. The biggest problem is that it is not always the cream that comes to the top. Australia started as a nation of immigrants, and it is still a nation of immigrants, but we are a proud country. Madam President, you know how far back we go in working on immigrant issues. You were shadow minister for ethnic affairs for the Liberal Party. You attended meetings of the Ethnic Communities Council and took much interest in the many issues that were raised. You know we always worked in a bipartisan way, which is the way it should be and should continue. We do not want any divisiveness brought by Pauline Hanson or anybody else. We do not want people against people. We would never approve of it.

The Hon. J. M. Samios spoke about the contributions of various groups to Australia. We were a country of immigrants, and in the early days

we never spoke about multiculturalism. It is interesting to look at some of the old photographs in this Parliament of those elected to govern this colony. They were predominantly Anglo-Celtic middle-aged men, even though the community comprised people of other nationalities. There were at least seven nationalities on the *Endeavour*, including a black American. Multiculturalism was anathema. Australia's policy was that people coming to this country should generally be from the British Isles.

The change occurred in the 1860s when gold was discovered and people came from all over the world, including from California and China. The anti-Chinese feeling started in those days. Unfortunately, if we scratch the surface we will still find that anti-Chinese feeling, especially among older Australians. A feature column of the *Bulletin* used to depict a huge octopus, which represented Asia spreading its tentacles and taking over Australia. The idea that Asia was ready to invade and take over Australia is deeply ingrained in some older Australians who most probably never had the opportunity to understand Asians, meet them or even learn that most of them were happy to remain in their country and that those who came here became Australians.

So this great fear of Asia increased during that era, especially when our ancestors or forefathers started to speak about a federation. One of the most important things they considered was Australia for the white people. It is quite sad that they did so much good work but considered that Australia should be only for the white people. The first Act Federal Parliament passed was to restrict immigration, preventing entry to Australia of people who were not white. Australia instituted a great dictation test, which meant that non-Europeans had to pass a dictation test of 30 lines in a European language. People from countries like China or India could not pass the test. That policy made Australia infamous.

**The Hon. C. J. S. Lynn:** Who got rid of it?

**The Hon. FRANCA ARENA:** It started with Calwell in 1947 with the populate or perish program. Calwell was a real pioneer even though—as the Hon. J. M. Samios said—he had this thing about Asians. He is famous for his "two wongs don't make a white" statement. The White Australia Policy started to go with the Holt Government. Holt started to allow Chinese people to come to Australia to study. The policy was relaxed slowly until 1972, when it was abolished completely by the Whitlam Government. Some people see Al Grassby as a picture of ridicule but one must give him credit for

having played an important role in the development of multicultural Australia. Al lived in Griffith, where there was a huge population of immigrants. He understood that these people wanted to be part of Australian society. It is important that we want to be a part of it.

One thing I have suffered in the Labor Party all these years has been the policy of exclusion. In the past this has been felt by many people in society as well as by our children in the schools. Fortunately it has been changing over the years but there is still a long way to go. I would like to commend to all honourable members the wonderful document "Multicultural Australia: The way forward", an issues paper published by the National Multicultural Advisory Council in December 1997. That document quotes the Federal Minister for Immigration, Philip Ruddock, as saying:

Australia is a country uniquely defined by its people, its land and its indigenous inheritance.

We have been able to build upon the richness and strengths of many cultures to create a nation of which we can all be justifiably proud. As we move into the closing years of this century, it is incumbent upon us to ensure that our legacy is one that future generations can build upon to surpass the great achievements of our past.

This is not to say there have been no problems, either in the process of nation building or now, but our traditions of fair play and tolerance have given us a community as diverse in its origins, as it is united in its common humanity. There is no better time to build upon multicultural policy and to make sure that it continues to work in the national interest throughout the coming decades.

I thought there was no better way for me to end than with the words of Philip Ruddock. His message is that it is not that we never had any problems but that we can build on our common humanity. That is an important message, a message to be delivered loud and strong to the Pauline Hansons of this world who would like to divide us with a policy of divisiveness. We reject that policy. As a parliament of people from all political parties—and I am sure I can speak for Reverend the Hon. F. J. Nile, the Hon. Elaine Nile and the other crossbenchers—we want to say that Australia is multicultural, it is united and it is rich in its wonderful people.

**Pursuant to sessional orders business interrupted. The House continued to sit.**

#### SPECIAL ADJOURNMENT

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

That this House at its rising today do adjourn until Tuesday, 22 September 1998, at 2.30 p.m.

**LEGAL PROFESSION AMENDMENT  
(PRACTICE OF FOREIGN LAW) BILL****Bill introduced and read a first time.****Second Reading**

**The Hon. J. W. SHAW** (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [4.16 p.m.]: I move:

That this bill be now read a second time.

This bill provides for the regulation of the practice of foreign law in New South Wales by foreign lawyers. As Australian businesses and companies actively pursue a greater role in the international arena of trade and commerce, there is an increasing need to have reliable access to legal services and advice relating to the law and legal systems of other countries. To achieve this end, the Standing Committee of Attorneys-General has been developing since 1991 model provisions dealing with the practice of foreign law in Australia. The development of provisions to facilitate and regulate the practice of foreign law has been supported by the Law Council of Australia. The Law Council has expressed the view that the enactment of such legislation will enhance the internationalisation of Australia's legal market.

In addition, the proposed legislation has the support of the Law Society, the Bar Association, the major law firms and the International Legal Services Advisory Council, an advisory body established by the Commonwealth in 1990 to advise the Commonwealth Attorney-General on Australia's international performance in the field of legal services. The advisory council is chaired by Sir Laurence Street. The proposed legislation allows for recognition of foreign lawyers irrespective of whether the country of origin of the lawyer offers reciprocal rights to New South Wales practitioners. Australia's obligations as a signatory to the General Agreement on Trade in Services prevents governments from making reciprocity a condition of recognition of foreign practice.

However, the Law Council and the Commonwealth are of the view that the enactment of legislation to facilitate the practice of foreign law will assist Australia in negotiations on market access issues, in work on professional services and in pursuing the export of legal services. It is understood that the Chairman of the International Legal Services Advisory Council is of the view that foreign lawyer legislation will place Australia in a stronger position when seeking recognition of local lawyers in other countries, especially those in Asia.

The bill will amend the Legal Profession Act by inserting a new part 3C. The new part will require a person wishing to practise foreign law in New South Wales to comply with the provisions of the Act. This will mean that a person practising foreign law who establishes an office or has a commercial legal presence in New South Wales will, in most circumstances, need to be registered by the Law Society or Bar Association. However, the registration requirements will not apply to New South Wales practitioners who hold practising certificates and who also advise on foreign law, or to foreign lawyers who are employed by local lawyers to give advice to local lawyers.

Under division 2 of part 3C, the Law Society or the Bar Association will be required to register a person as a foreign lawyer if he or she demonstrates his or her entitlement to practise in a foreign jurisdiction and an intention to practise foreign law in New South Wales, and to establish an office or a commercial legal presence. However, registration may be declined if the Law Society or Bar Association is of the view that it would be inappropriate to register the person because of conditions imposed on the practice of the person by his or her home registration authority or any undertakings concerning the practice of law. Conditions may also be imposed on the practise of the person in New South Wales by the Law Society or the Bar Association. However, the domestic registration authority must not impose a condition that is more onerous than it would impose on a domestic lawyer in analogous circumstances.

To ensure that foreign lawyers do not practise Australian law in New South Wales, new section 48ZY will prohibit foreign lawyers from using any advertising suggesting that they are domestic lawyers. New section 48ZQ sets out the circumstances in which a person's registration may be cancelled. These grounds include the cancellation of registration in the lawyer's home jurisdiction, failure to comply with the Legal Profession Act, or failure to establish an office or a commercial legal presence within a reasonable period of being granted registration. New section 48ZR enables a foreign lawyer to appeal to the Supreme Court against a refusal to register or renew the registration of the lawyer under the new part, a cancellation of registration or any action taken against the lawyer under section 55 of the principal Act.

New section 48ZS restricts the legal services that may be provided by a locally registered foreign lawyer. Legal services that may be provided are those that consist of doing work or transacting business concerning the relevant foreign law, those that relate to arbitration proceedings of a kind

prescribed by the regulations and those that relate to proceedings in which knowledge of the relevant foreign law is essential. New section 48ZT provides that foreign lawyers may choose a business structure which is available to local lawyers to suit their mode of practice. At the request of the Bar Association, new section 48ZS varies from the model provisions by permitting a locally registered foreign lawyer to appear in proceedings before courts and other bodies when knowledge of foreign law is essential.

The model provisions considered by the Standing Committee of Attorneys-General limit the scope of practice of such a lawyer to appearances in proceedings other than courts. The Bar Association rightly points out that by according foreign lawyers full rights of appearance, the development of an international market for legal services and the facilitation of the making of reciprocal arrangements with other jurisdictions will be encouraged. However, new section 48ZL will enable the relevant domestic registration authority, that is the Bar Association or the Law Society, to impose a condition on the registration of a foreign lawyer concerning such appearances.

New section 48ZU will prohibit a locally registered foreign lawyer from engaging in any conduct in practising law that would, if the conduct were engaged in by a domestic lawyer practising Australian law in New South Wales, constitute professional misconduct or unsatisfactory professional conduct. New section 48ZV provides for disciplinary action to be taken against locally registered foreign lawyers under part 10 of the principal Act. In assessing whether disciplinary action should be taken, the domestic registration authority may take into account whether the conduct concerned was consistent with the standards of professional conduct of the legal profession in the foreign lawyer's own country.

Under new section 48ZAA a locally registered foreign lawyer will be required to maintain professional indemnity insurance that is broadly equivalent to the coverage required to be held by domestic lawyers. Similarly, new section 48ZAB requires locally registered foreign lawyers who receive money on behalf of other persons in the course of practising as foreign lawyers in New South Wales to maintain trust accounts. Part 6 of the Act will apply to such lawyers and prevents locally registered foreign lawyers from practising unless any fidelity fund requirements imposed by regulations under new section 78A are complied with. One of a number of benefits of this legislation will be that there will be in place in New South Wales a

transparent statutory regime which will recognise the reality of the increasing internationalisation of legal practice.

It is hoped that the liberalised approach adopted by this legislation will result in Australia, and New South Wales in particular, being seen as a progressive and hospitable place in which to transact international business, thereby increasing our competitiveness. In this regard, similar legislation was introduced in Victoria in 1997. It is also hoped that by providing a uniform and open basis for foreign lawyer entry to Australia in a manner that enables foreign lawyers to become integrated with local lawyers in the practice of their foreign law there will be a useful platform to argue for corresponding access for Australian lawyers to the developing global market for legal services. I commend the bill.

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

#### **JUSTICES LEGISLATION AMENDMENT (APPEALS) BILL**

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

#### **Second Reading**

**The Hon. J. W. SHAW** (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [4.26 p.m.]: I move:

That this bill be now read a second time.

The Justices Act prescribes procedures to be followed for criminal proceedings before Local Courts. The Act is the procedural backbone of the Local Courts. Therefore, it is of special significance because of the many thousands of cases which come before the Local Courts of New South Wales each year. In 1992 a review was completed of the Justices Act 1902 which recommended the reform of the Act to ensure that the procedures followed for criminal proceedings before the Local Courts in New South Wales are relevant to modern needs. This bill largely implements those recommendations of the review concerning the reform of appeal procedures to the District Court and Supreme Court, with some modification to the proposals relating to District Court Appeals.

Because of the technical nature of the bill and the time that has elapsed since the release of the Justices Act review, the bill was tabled on 19 November 1997 as a draft exposure bill. This has

enabled additional consultation to be undertaken with the judiciary, the magistracy and the legal profession and for a number of changes to be made to the bill to refine it further. I will detail these changes in the course of explaining the provisions of the bill. Currently under the Justices Act a person may appeal to the District Court against any conviction or order of a justice under which any person is imprisoned, fined, ordered to pay costs or otherwise punished. Such an appeal must be lodged within 21 days of the date of the conviction or order, although leave to appeal can be sought from the District Court up to three months from this date.

The hearing of the appeal may be determined in one of two ways. First, the appeal may be against conviction, which involves a full de novo hearing before the District Court requiring the court to rehear all the available evidence in relation to the matter. Although the depositions of the hearing before the magistrate may be used, there is no compulsion upon the appellant to allow the prosecution to proceed in this way, unless the witness is dead, too ill to travel or cannot be found. The second way in which an appeal may be determined is an appeal limited to a review of the sentence imposed by the Local Court. In sentence appeals the District Court judge hears further submissions from the accused and the prosecution without the need for further evidence to be taken and without the need for a transcript of the Local Court proceedings to be prepared.

It is the intention of this bill only to modify the former method of appeal, that is, an appeal against conviction. The reasons District Court appeals are heard de novo have their origins in appeals from a single justice in petty sessions to a bench of justices in quarter sessions. Because the latter could not review the former, the appeal was heard afresh by the panel of justices. Despite the change from lay justices to legally qualified magistrates, and from sessions of justices to District Court judges, the nature of the appeal jurisdiction has remained the same.

The 1992 review of the Justices Act examined a number of proposals to limit appeals to the District Court. More recently the Chief Judge of the District Court expressed concern about the amount of time the District Court must allocate to the hearing of appeals from decisions of magistrates. Concern has also been expressed by others that because of the delay in dealing with all-ground appeals, by the time they are heard the prosecution often has trouble obtaining the witnesses to reappear and give evidence again before the District Court. Accordingly, the Government has taken the

opportunity to re-examine the proposals to limit District Court appeals which were previously considered by the Justices Act review committee.

After examining these proposals the Government decided to adopt the proposal initially rejected by the review committee to limit appeals to the District Court to a rehearing on the depositions of the Local Court, with provision for fresh evidence to be given by leave. It was intended that this proposal would largely remove the need to recall witnesses to give evidence on a further occasion when an appeal is lodged. This provision was included in the draft exposure bill released last November. At the time it was considered that the benefits to be derived from the adoption of this limited form of appeal would be a saving in court time in hearing many appeals and reduced trauma for victims and prosecution witnesses, who would not have to give evidence twice in relation to the same matter.

However, during the consultation period carried out on the draft exposure bill, the revised proposal did not meet with the support of the legal profession. Both the Law Society of New South Wales and the New South Wales Bar Association argued that parties to appeal proceedings should continue to be able to recall witnesses on appeal who earlier gave evidence before the Local Court. Concern was also expressed that the proposed leave provision to adduce further evidence was too broad and unguided and may give rise to variable and inconsistent rulings from judges of the District Court.

In an attempt to address the concerns raised by the legal profession a compromise position that was suggested by the Chief Magistrate and supported by the Chief Judge of the District Court has been adopted. Under the revised appeal procedure, which is detailed in new section 133, appeals will continue to be dealt with by way of rehearing on the depositions of the Local Court. However, it is proposed to permit the parties to recall witnesses who gave evidence in the earlier proceedings before the Local Court if similar criteria to those set out in section 48E of the Justices Act, which applies in relation to the calling of witnesses in committal hearings, can be satisfied.

The criteria provide that in the case of an alleged victim of an offence involving violence a party to the proceedings will need to satisfy the court that there are special reasons why, in the interests of justice, the witness should be called again in the appeal proceedings. In any other case a party to the proceedings will need to satisfy the

court that there are substantial reasons why, in the interests of justice, the witness should be called again in the appeal proceedings. In addition, where a party wishes to adduce further evidence, new section 132(3) provides that the court must be satisfied that it is in the interests of justice that such evidence be given.

I have already alluded to the problem of victims having to give evidence twice in relation to the same matter. As with committal hearings, the adoption of the test set out in section 48E of the Justices Act would reduce the incidence of this happening, particularly in relation to victims of crime. Indeed, the rationale for section 48E appears to apply equally in the case of District Court appeals, that is, witnesses should not be called to give evidence and be cross-examined more than on the one occasion, unless there are good reasons for doing so.

Because of the impact of this proposal on witnesses who may be victims of crime, particularly victims of violent crime, it was considered appropriate to seek the advice of the Victims Advisory Board in relation to the proposed revised procedure for District Court appeals. The Victims Advisory Board was able to consider this matter at its meeting on 9 September 1998. Whilst some concern was raised in relation to the practical application of the proposed changes, the members of the Victims Advisory Board resolved to support the proposed changes because it considered one of the clear intentions of the new procedure was to reduce the trauma of victims by not requiring them to give, unnecessarily, the same evidence twice.

The Victims Advisory Board, however, was also of the view that the practical application of the proposed changes needed to be monitored to ensure that the trauma of victims involved in an appeal to the District Court was in fact reduced. It is intended that this will be done as part of the general monitoring of the effectiveness of this legislation. It is, therefore, apparent that following the release of the draft exposure bill, every effort has been made to address the concerns of the legal profession in relation to the recalling of witnesses in appeals to the District Court, while at the same time endeavouring to address the concerns of the Chief Judge of the District Court in relation to the amount of time the District Court must spend in hearing these matters, as well as having regard to the inconvenience and distress caused to witnesses having to give evidence twice in relation to the same matter. The revised appeal procedure is considered to be an apt solution to these competing concerns.

The bill adopts a number of other recommendations of the Justices Act review relating to District Court appeals. In particular, the bill requires a person who pleads guilty before a magistrate to seek the leave of the District Court before being able to appeal against conviction. Honourable members are advised that the courts have been loath to allow accused persons to change a plea of guilty unless there is a possibility of a miscarriage of justice. Inquiries previously made with the Office of the Director of Public Prosecutions reveal that about 10 per cent of conviction appeals follow a plea of guilty in the Local Court.

Magistrates currently have the power to review their own decisions or those of their fellow magistrates generally where the matter is dealt with in the absence of the defendant. It is possible also, however, for a defendant to proceed by way of a District Court appeal in lieu of having such a decision reviewed by Local Courts. This arrangement has given rise to problems where certain defendants, particularly defendants involved in traffic offences, such as taxidriviers, elect to have traffic offences dealt with by the Local Court, fail to turn up then lodge appeals to the District Court for a full de novo hearing.

To address this problem the bill requires a person to obtain leave to proceed from the District Court before an appeal can be heard in circumstances when the appellant has not exhausted all avenues of review available in the Local Court. This will mean that when a matter has been dealt with in the absence of the defendant, the defendant will be required to utilise the existing avenues available in the Local Court to have that earlier decision reviewed. Only after there has been a full hearing in the Local Court, or when the defendant has successfully sought the leave of the District Court, will a defendant be permitted to appeal to the District Court.

Honourable members should be made aware that in relation to certain environmental offences appeals from the Local Court are referred to the Land and Environment Court for determination, although the appeal procedures for both types of appeals are the same. The appeals procedure to the Land and Environment Court is set out in part 5B of the bill. At the request of the Chief Judge of the Land and Environment Court the opportunity has been taken, however, to broaden the definition of environmental offence. New section 133W extends this definition to mean an offence against the environment protection legislation as defined in the Protection of the Environment Administration Act 1991.

In practical terms this will mean that all environmental offences will be referred to the Land and Environment Court on appeal, as opposed to some environmental matters going to the District Court, thus ensuring that these matters are dealt with consistently on appeal. Furthermore, it will also ensure that the appellate jurisdiction of the Land and Environment Court is co-ordinated with its original summary jurisdiction.

The Justices Act provides for three avenues of appeal or review by the Supreme Court of a decision of the Local Court. These are: case stated, statutory prohibition and statutory mandamus. A decision of the Local Court may also, in appropriate circumstances, be the subject of an application for relief under the Supreme Court Act 1970, these being statutory mandamus, relief in the nature of prohibition, mandamus and certiorari at common law and declaratory relief. Procedures for appeal by way of stated case are generally regarded as being cumbersome and unwieldy. The process of settling a stated case is often protracted and costly. There may be debate about the content of the case and, at times, the case may be remitted from the Supreme Court back to the magistrate to be restated in a form that raises the precise questions for consideration by the court.

The stated case procedure is not popular as a means of review by a convicted person. Generally speaking, it is the only path by which an unsuccessful prosecutor can assert error of law at a summary hearing. The stated case procedure has few supporters amongst the judiciary or practitioners. The 1992 review of the Justices Act examined a number of proposals for reform of the appeal procedures to the Supreme Court from decisions of magistrates. This bill largely adopts the recommendations of that review.

First, the bill repeals the existing statutory avenues of appeal under sections 101, 112 and 134 and replaces them with a single avenue of appeal to the Supreme Court. The procedure will permit an appeal to the Supreme Court from a decision in a summary hearing by a magistrate by way of summons and affidavit in support annexing the transcript of proceedings and the judgment of the magistrate. The grounds of the appeal will be specified in the summons or affidavit in support. This procedure is similar to the procedure currently relied upon whereby statutory prohibition is sought and is considered to be simpler than the current requirements of the Justices Act, while largely preserving existing appeal rights.

Both the prosecutor and a convicted person will be able to appeal as of right to the Supreme Court under the proposed simplified procedures. However, a prosecutor or a convicted person will be able to appeal to the Supreme Court on a question of mixed fact and law only by leave of the court. This will ensure that matters are not unnecessarily diverted to the Supreme Court as opposed to being dealt with by the District Court. In addition, a convicted person will have an appeal as of right on the ground that the conviction or order cannot be supported by the evidence. This will preserve the existing basis for appeal under section 112(5) of the Justices Act.

Currently, section 122 of the Justices Act provides that where an appellant is unsuccessful in appeal proceedings to the Supreme Court under section 112 of the Act, he or she may within seven days lodge an appeal with the District Court. The right to pursue a second avenue of appeal in the event that the appellant is unsuccessful in the first avenue is considered to be anomalous. Under this bill a defendant who appeals to the Supreme Court is to be taken to have abandoned his or her right of appeal to the District Court. However, should a person subsequently be convicted by a magistrate after a matter is remitted to the Local Court following a stated case determination in the Supreme Court, he or she may on that occasion appeal to the District Court against such a conviction.

Section 146 of the Justices Act provides that no conviction by a magistrate shall be removed by an order into the Supreme Court. The provision purports to restrict the availability of relief in the nature of certiorari. However, as with other privative clauses of this type, section 146 has been construed narrowly and does not prevent relief by way of certiorari where there is a manifest want of jurisdiction or an excess of jurisdiction on the face of the record. Technical debate often occurs as to whether jurisdictional error of this type exists in the case at hand. Accordingly, as privative clauses such as section 146 tend to give rise to technical argument seeking to confine their effect, it is intended to repeal that provision.

Currently, where a person appeals under section 101 by way of stated case and enters a recognisance to prosecute the appeal, the orders of the Local Court are stayed. Similarly, where an appellant to the District Court under section 122 enters appeal, bail or a recognisance to prosecute the appeal, the orders of the Local Court are stayed. The grant of bail, however, does not automatically

constitute a stay of proceedings. There is no provision in the Bail Act, Justices Act or Supreme Court Act providing specifically for the grant of a stay of sentence pending appeal to the Supreme Court. If a stay is not granted and an appellant is at large on bail, the sentence continues to run. In the absence of a stay, an appellant may achieve an unmeritorious success in that his or her appeal may fail but his or her sentence has expired by effluxion of time whilst the proceedings have been on foot.

To remedy this problem, the bill contains specific provisions to stay proceedings pending the hearing and determination of the appeal by the Supreme Court once a bail determination has been made. However, to ensure that such a mechanism is not abused, it is proposed to permit the Supreme Court to review the stay of proceedings where the informant can satisfy the court that the appellant has unduly delayed the appeal proceedings. Honourable members should be made aware that in the earlier released draft exposure bill, the power to review the stay of such proceedings was vested in a magistrate. However, the Chief Magistrate has suggested that the Supreme Court would be better placed to make that assessment.

Accordingly, new section 108(2) provides that the power to review a stay of proceedings applying to an appeal to the Supreme Court now rests with that court. The bill also provides that where an appeal is lodged in relation to a conviction under the Traffic Act 1909 that includes a period of disqualification from holding a driver's licence, there is to be no stay of proceedings in relation to the period of disqualification. This has been done to prevent a person from lodging an appeal for the sole purpose of continuing to be able to drive pending the outcome of the appeal. Honourable members should also be made aware that the Government intends to introduce further legislation this session that will replace the use of recognisances under the Justices Act, such as recognisances to prosecute appeals. Accordingly, this bill has been drafted in anticipation of those other reforms commencing at the same time as the provisions of this bill.

Section 131A of the Justices Act permits a judge of the District Court to state a case submitting to the Supreme Court any question of law arising on any appeal not being a question of criminal law. Questions of criminal law may be the subject of a stated case to the Court of Criminal Appeal pursuant to section 5B of the Criminal Appeal Act. That provision was introduced in 1951 and was originally intended for appeals in maintenance cases and appeals in some matters under the Liquor Act. However, as appeals to the District Court in both

maintenance matters and non-criminal matters under the Liquor Act no longer occur, it is intended to repeal this provision.

At present, a District Court judge hearing an appeal under section 122 of the Justices Act cannot be asked to state a case on a question of law to the Court of Criminal Appeal under section 5B of the Criminal Appeal Act 1912 after the District Court has disposed of the appeal. The Crown or the appellant must ask the judge to state a case prior to the judge making final orders disposing of the appeal. This gives rise to hardship and constitutes an unreasonable restriction on the ability of the parties before the District Court to have a question of law properly determined by the Court of Criminal Appeal in an appropriate case. The bill will address that technical restriction by permitting the Crown or the appellant to appeal to the Court of Criminal Appeal after conviction on a question of law.

Finally, I advise that a number of other minor technical amendments were made to the bill following comments received during the course of consultation on the draft exposure bill. In conclusion, the measures being introduced by the bill represent a further step in the Government's broader strategy to reform the structure of the court system and to make it more efficient in the interests of the users of that system and the wider community. The bill also represents a considered and careful response to the competing policy interests associated with Local Court appeal rights following an extensive period of consultation. I commend the bill to the House.

**Debate adjourned on motion by the Hon. J. P. Hannaford.**

## **PRIVACY AND PERSONAL INFORMATION PROTECTION BILL**

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

### **Second Reading**

**The Hon. J. W. SHAW** (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [4.46 p.m.]: I move:

That this bill be now read a second time.

The purpose of the bill is to promote the protection of privacy and the rights of the individual by the recognition, dissemination and enforcement of data protection principles consistent with international best practice standards. The bill gives statutory recognition to data protection principles concerning

the collection, storage, use and disclosure of personal information by public sector agencies. The data protection principles do not attempt to define the meaning of "privacy" but seek to establish principles for dealing with personal information in an open and accountable manner.

The objects of the bill are: to promote the protection of the privacy of individuals; to specify information protection principles that relate to the collection, use and disclosure of personal information held by public sector agencies; to require public sector agencies to comply with these principles; to provide for the making of privacy codes of practice for the purpose of protecting the privacy of individuals; to provide for the making of complaints about privacy-related matters, and for review of conduct that involves the contravention of the information protection principles or privacy codes of practices; and to establish an office of Privacy Commissioner and to confer on the Privacy Commissioner functions relating to privacy and the protection of personal information.

The bill defines "personal information" to mean information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. It specifies a number of requirements relating to the confidentiality and safeguarding of personal information that is collected, held and used by public sector agencies. These requirements are referred to as information protection principles and relate to such matters as restrictions on the collection of personal information, the giving of information when personal information is obtained and used, storage and security of personal information, access to personal information, and alteration of personal information. The bill provides exemptions for public sector agencies from complying with the information principles in certain circumstances.

The purpose of the legislation is not to protect secrecy in dealings or to protect the Government from accountability for its actions, and accordingly there are generous exemptions in the bill for such investigative agencies as the Independent Commission Against Corruption, the Police Integrity Commission and the New South Wales Crime Commission, which have to comply with the information protection principles in connection with the exercise of their administrative and educative functions. A similar exemption is provided for the Police Service. The bill also provides for the making of privacy codes of practice which can modify the application of the information protection principles in a particular public sector agency. Each public

sector agency is required to prepare privacy management plans detailing policies and practices to be adopted by the agency to ensure compliance with the requirements of the bill.

It is proposed to establish the office of the Privacy Commissioner, which will subsume all the present functions and powers of the existing New South Wales Privacy Committee in relation to general privacy issues as well as exercise additional functions in relation to the data protection principles. The general functions of the Privacy Commissioner will include promoting the adoption of, and monitoring compliance with, the information protection principles, initiating and recommending privacy codes of practice, conducting research into privacy matters, and preparing and publishing privacy guidelines. The Privacy Commissioner may also publish a personal information digest setting out the nature and source of personal information held by public sector agencies, and any such digest is to be made publicly available.

The commissioner will continue to be able to receive complaints in relation to alleged violations of the privacy of persons. In addition, the commissioner will have the power to receive complaints in relation to alleged breaches of the information protection principles, relevant code, or public register provisions. The Privacy Commissioner's complaints-handling role will have a conciliation and education focus, similar to that of the President of the Anti-Discrimination Board in relation to complaints of unlawful discrimination. The commissioner will deal with complaints by way of conciliation and will not have power to make enforceable determinations in relation to complaints. However, in cases in which the complaint relates to a breach of a data protection principle, relevant code, or breaches of the public register provisions, the complainant can choose to have the commissioner conciliate the matter or alternatively to seek an internal review by the agency with a right of review by the Administrative Decisions Tribunal—ADT.

If the complainant chooses to have the matter conciliated by the commissioner then there will be no further right to an internal review and subsequent appeal to the Administrative Decisions Tribunal. There will be no provision allowing for more general privacy complaints to be referred for determination to the ADT. The Privacy Committee Act 1975 will be repealed, and all existing functions of the committee transferred to the new commissioner. However, the new legislation will provide for the establishment of a privacy advisory committee to advise the Privacy Commissioner in

relation to matters relevant to his or her functions. The legislation will create a specific criminal offence in relation to the supply of personal information by a public official in return for financial or other benefit. It will also be an offence to solicit the corrupt supply of information by a public official.

It should be stressed that the data protection principles are generally subject to any specific provision in any law relating to the use or disclosure of information. For example, health legislation providing for the compulsory notification of certain diseases would in no way be affected by the proposed legislation. The screening processes provided for in the Commission for Children and Young People Bill, which has been introduced into Parliament as an exposure bill, will not be affected by this bill. New South Wales was one of the first jurisdictions in the world to introduce legislation dealing specifically with privacy protection when the New South Wales Privacy Committee was established pursuant to the Privacy Committee Act 1975.

Throughout its 23-year history the committee has played a valuable role in providing advice on privacy policy to both the government and the private sectors, educating the community about important privacy issues, and conciliating complaints brought by individuals about breaches of privacy. However, it is now apparent that more detailed and extensive legislation is needed in order to address the demands of evolving information technologies, community and international expectations for effective privacy safeguards, and in particular the need for the development of standards in relation to data handling. During the 23-year period since the passage of the Privacy Committee Act, information technology has developed very rapidly. When the first personal computers began to penetrate the Australian market in the early 1980s, 64 kilobytes of memory was considered to be quite remarkable.

Today compact disks are able to store 500 megabytes, that is, one-quarter of a million A4 pages. Personal computers used to be stand-alone; now there are local and wide area networks, including the Internet, which provides data links across the globe. Optic fibres are able to carry digitised audio and video data in the form of extremely fast light pulses. It is so fast that it has been estimated that the entire contents of the *Encyclopaedia Britannica* can be transmitted along a single optic fibre in about eight seconds. Prior to these developments in information technology, there was a range of natural barriers that ensured that records containing personal information were not

misused. For example, to retrieve a name and address from a file it was often necessary to consult a card index system for the relevant file number, physically locate the file in a filing cabinet or compactus, then examine the file until the name and address were found.

Today it is much more likely that the only step needed to retrieve that same information is to type the name into a desktop or laptop computer. Information technology has made records of personal information more vulnerable to abuse as it enables the storage of vast amounts of personal data at low cost for indefinite periods of time, the instantaneous retrieval of personal data, the centralisation and linkage of personal data, and the rapid and extensive transmission of personal data. There can be no doubt that there is strong concern among many in the community about the implications of these developments for personal privacy and the rights of the individual. A survey commissioned by the Federal Privacy Commissioner in August 1994 showed that 74 per cent of Australians considered the confidentiality of personal information to be a very important social issue, even more important than the economy and the environment. Most of those surveyed believed that government should pass legislation to ensure that privacy is protected.

The government is itself one of the main collectors and users of personal information. I consider that effective safeguards in relation to that information are a vital part of government's compact with the community. Developments in information technology have not been matched by the development of an appropriate policy and legal framework to ensure that the right to information privacy is protected. As the leading State in communications, media and information technology, it is appropriate that New South Wales should take a lead in developing effective and comprehensive data protection legislation.

In New South Wales the need to provide for safeguards in relation to the release of personal information held by government agencies was highlighted in particular by ICAC's 1992 report entitled "Report into the Unauthorised Release of Government Information". That inquiry revealed a massive illicit trade in information involving government departments, the police, lawyers, financial institutions and private investigators. As well as drawing attention to the corrupt conduct involved in this trade, the ICAC report was very critical of the lack of any co-ordinated and consistent government policy dealing with the storage and release of information.

The Privacy Committee has exercised powers of investigation, inquiry and reporting in relation to complaints about breaches of privacy from both the public and private sector for more than 20 years. The Privacy Committee cannot enforce its recommendations but it has powers to compel witnesses similar to those of a royal commission. These powers to deal with general privacy-related complaints will continue in their present form. It should be noted that the privacy codes of practice will not be enforced against the private sector, and complaints about breaches of privacy in the private sector will not be referred to the Administrative Decisions Tribunal. This bill applies information privacy principles only to the public sector at this stage. Whilst the Government remains committed to its pre-election undertaking to develop effective data protection laws which apply to both the private and the public sectors, it has been decided that this should be done in a uniform manner on a national basis.

Up until recently it was understood that the Commonwealth Government would legislate to have data protection principles apply to the private sector nationally. The Commonwealth Government has now indicated it will not legislate to do so. As it is important that a national approach be taken to the application of data protection principles to the private sector, consideration is currently being given to a national model to apply to the private sector. When resolved, the present legislation can be amended to apply to the private sector, if that is deemed appropriate at that time. It is important to note that there are sound economic arguments for enacting legislation with the potential to apply to the private sector. But, for the reasons I have explained, it is not proposed to do so at this stage.

This bill is directed to the State public sector. It will constrain public sector agencies in the use of data, and it will provide enforceable rights for citizens to obtain compensation where those rights are breached, by approaching the Administrative Decisions Tribunal and seeking enforcement of those rights. This bill will achieve an effective and reasonable balance in the circumstances. This is a positive step forward in the development of privacy rights of the citizens of New South Wales. I commend the bill to the House.

**Debate adjourned on motion by the Hon. J. P. Hannaford.**

## **BUSINESS OF THE HOUSE**

### **Postponement of Business**

**Government business orders of the day Nos 1 to 14 postponed on motion by the Hon. J. W. Shaw.**

## **JUSTICES LEGISLATION AMENDMENT (APPEALS) BILL**

### **Withdrawal**

**Order of the day for the second reading discharged.**

**Bill discharged and withdrawn.**

## **ADJOURNMENT**

**The Hon. J. W. SHAW** (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [5.02 p.m.]: I move:

That this House do now adjourn.

## **FEDERAL ELECTION CAMPAIGN**

**The Hon. HELEN SHAM-HO** [5.02 p.m.]: On 1 September four of Australia's most recent Prime Ministers, the Rt. Hon. Malcolm Fraser, the Hon. Gough Whitlam, the Hon. Bob Hawke and the Hon. Paul Keating, issued a passionate statement enjoining voters to shun all candidates who support any element of racism. I join them in this plea. The Democrats have since launched their Federal election campaign on the slogan, "Vote Democrats to stop One Nation dividing Australia". The Greens have also shown support for multiculturalism and against racism. I resigned from the Liberal Party in protest against the Prime Minister's lack of leadership against Pauline Hanson's One Nation Party, which is dividing this country with its racist antics.

My growing disillusionment with the Federal coalition Government was shared by many others. One result has been an increase in the number of minor parties campaigning on a platform of multiculturalism, antiracism and social cohesion. All those factors bear testimony to the importance of these issues in the upcoming Federal election. The election on 3 October will be a defining moment for Australia. Its importance lies in the significance of electing a dynamic, visionary government that will lead Australia into the next millennium. Disappointingly, the two major parties and their leadership have chosen to focus their election campaigns almost exclusively on the taxation debate.

The Australian Labor Party appears to be a bit better, with a broader approach. The coalition parties are focussing on a goods and services tax. The fate of taxation reform will have significant implications for both the prosperity of individual Australians and the economic sustainability of Australia as a nation. While no-one doubts the importance of the taxation

debate, however, the two major parties have failed to address properly other important questions involving the environment, reconciliation, multiculturalism, social justice and national identity. While tax reform will have a bearing on Australia for perhaps the next decade or more, resolution of the wider issues will determine the kind of society Australia becomes and the values on which it is built.

The tax debate should be approached not as an argument over dollars, cents and deficits but as a discussion of the kind of society each leader wants Australia to be. Rather than debating the intricacies of how much more money each voter will get under the two tax packages, the leaders should articulate how their respective packages reflect their views of society and the appropriate balance between social fairness and economic efficiency. Furthermore, it seems that the tax packages of both parties will not be the solution to Australia's problems. As reported in the *Sydney Morning Herald* of 31 August, research conducted by OECD economists suggests that the growth dividend from cuts to the overall tax burden and the employment gains from a switch from income to consumption tax will be relatively small. This begs the question whether the cost of the switch is worthwhile.

The election should not be just about tax. It should not even be primarily about tax. It should be concerned with the human impact of economic policy and the creation of jobs. It should be about taking the Australian people into the twenty-first century at a time of profound global economic and political uncertainty. We know little about the Prime Minister's thoughts and vision for the future or what kind of society he would like to see Australia become. We know very well that the Prime Minister's sole focus is a goods and services tax. He has demonstrated little sense of the future. I hope that voters will take great care when they vote in the election as this threatens to result in the election of a government committed to sound economic management but blind to the wider national concerns that will determine the future development of Australian society, Australia's identity as a multicultural society, protecting our environment, reconciliation between the city and the bush, justice for Aboriginal Australians and many other important issues which are still unresolved.

Extra money in the pockets of individual Australians, while welcome, will be of little benefit if Australia is socially and economically divided, and unsure of its national identity. Politics and government can and must not just put a few more

dollars in people's pockets but also help to build a better nation. The success of Pauline Hanson's One Nation Party in the Queensland State election in June was a surface symptom of the deep disillusionment felt by many Australians towards the two major political parties.

As reported in the *Australian*, a Newspoll survey which showed that most of the backing for the minor parties, including Pauline Hanson's One Nation Party, is motivated by a dislike of the coalition and Labor rather than positive support for the small party. The emergence of the Unity Party and its leading Senate candidate, Mr Jason Li, also signifies increasing frustration, especially among ethnic minority groups, with the coalition's response to the One Nation Party's racist and anti-immigration line. [Time expired.]

### DYSLEXIA

**The Hon. B. H. VAUGHAN** [5.07 p.m.]: I draw the attention of honourable members to a matter that was drawn to my attention recently, namely dyslexia, or word blindness. A person with 20-20 vision who is dyslexic cannot read words. After the death of Ennis Cosby, son of the American television star Bill Cosby, his diary was found. In it he had written:

The happiest day of my life occurred when I found out I was dyslexic. I believe that life is [about] solutions, and the worst feeling to me is confusion.

I have been shown a solution for those who are dyslexic or have a visual impairment. That solution is computer technology known as the Omni3000, which I believe should be available in all schools and libraries throughout the State. Mr J. J. Bond of the central coast, who has the zeal of a crusader, made me aware of word blindness, which is a crippling burden on those who suffer from it. Mr Bond has become highly qualified in his chosen calling by exercising a phenomenal memory. A phenomenal memory is the only way people with dyslexia can compensate for their blindness.

Omni3000 is a computer software package that enables people to read; it reads text for people. Mr Bond launched his crusade against dyslexic discrimination in job applications, especially in public service employment procedures. He is a member of the council at Mater Dei College, Tuggerah, which is the only school in Australia that has purchased this to adopt this technology. It has been praised extensively in the central coast press. The Gosford *Central Coast Express Advocate* wrote:

Visually impaired and special learning needs students who attend Mater Dei College now have a winning edge.

The use by Mater Dei college of this computer technology illustrates what all State schools and community libraries should possess to ensure that a comprehensive service and adequate education is provided to those who suffer, for example, a visual impairment, not only dyslexia. The Omni3000 reads pages of text to the user, enabling the user to more readily recognise and spell words. It scans and displays pages from any book or document, whether it is print or electronic form.

The problem is that the hardware costs \$5,000 and the software program costs \$3,000. I do not have enough time on this occasion to outline the advantages of this program, but bearing in mind that the Premier announced in a media release on 15 September that the Labor Government has implemented a \$2 million literacy strategy, it seems that this technology ought to be adopted. I agree that it cannot be purchased by every school or library, but surely it is up to this State, our Government, and the education system to provide this technology to regional schools and libraries.

#### JOSHUA HAMILTON MEDICAL TREATMENT

**The Hon. M. R. KERSTEN:** [5.11 p.m.]: I bring to the attention of the House a situation involving the Hamilton family of Warren, and particularly that of their son Joshua, who suffers from a brain tumour and is currently undergoing chemotherapy treatment. On Tuesday, 25 August, Joshua's GCSF needles were supposed to be shipped to Warren by TNT Overnight Express to Dr John Burke for collection by the Hamilton family. This procedure has occurred monthly since March without any hassle or extra phone calls; the family has a standing order with the pharmacy. One week prior to the scheduled despatch when Ian Hamilton, Joshua's father, collected the discharge drugs he checked with the pharmacy about the order. When Mr Hamilton said the drugs were needed in five days the comment was that everything was right, there were no problems.

On Tuesday, 25 August, when the drugs had not arrived in Warren, Joshua's mother, Dianne Hamilton, contacted Westmead Children's Hospital on a long-distance call, because no 1800 number is available for emergencies. On finding the oncology clinic closed, Mrs Hamilton contacted the pharmacy direct. The first person she spoke to spoke very little English and kept asking her what ward she was in. Mrs Hamilton explained that she was 600 kilometres away in Warren. He passed Mrs Hamilton on to another person from a non-English speaking

background, who referred to her as Mrs Clark, even after she explained on several occasions who she was.

Mrs Hamilton explained that the GCSF needles had not arrived and that they had no more needles for the next dose on Wednesday, the following day. Mrs Hamilton was placed on hold. The person to whom she had spoken returned to the phone, again called her Mrs Clark, and told her the needles were at TNT awaiting transport. After again explaining who and where she was, and asking if the needles had been sent to Dr Burke, she was again put on hold. The person to whom she had been speaking returned to the call and told her that the needles had been sent that day and asked again for her phone number before ending the call. Mrs Hamilton was left with the impression that the needles were on their way and were due to arrive in Warren on Wednesday at 11.00 a.m., when they were badly needed.

On Wednesday, 26 August, at 11.00 a.m. Mrs Hamilton was phoned by Westmead Children's Hospital and asked where the needles should be sent. Mrs Hamilton became distressed. She believes the caller was an oncology nurse, who told her that the pharmacy did not know where to send the GCSF needles. Mr Hamilton informed the nurse that his wife, Dianne, had spoken to the pharmacy the previous day, and the nurse apologised. Consequently, Joshua did not receive his daily dose on Wednesday as the next possible delivery to Warren was Thursday. This drug is vital to Joshua's health and life. It improves his platelet count, which helps his ability to cope with and counteract infection following chemotherapy treatment.

Joshua depends on this drug for his life. He requires 10 daily injections following chemotherapy. The problem with the delivery of the needles occurred when Joshua's blood count was at its lowest. He now has an infected finger and must take huge doses of antibiotics to treat it. Mr and Mrs Hamilton have told me that if it is deemed that the Westmead Children's Hospital pharmacy was negligent, they are prepared to take legal action. Mr and Mrs Hamilton feel strongly that people without a proper grasp of the English language should not be allowed to conduct direct telephone communication.

This instance involved life or death. The mix-up could easily have been avoided if the pharmacy had followed the established and successful procedure, and, without meaning to insult any migrant to this country, if the phone had been answered by someone with basic English skills who

could understand the problem. On this occasion that was not the case. Phone calls must be handled competently and without frustration to the caller, particularly in such life-threatening instances.

### CLASSROOM PORNOGRAPHY

**The Hon. ELAINE NILE** [5.15 p.m.]: We have all been disgusted at President Clinton's behaviour and his obsession with sex. Some people have complained that the entire saga has been placed on the Internet, and have called it pornography on the Internet. On 19 August I wrote to the Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs, about a book entitled "*In the Skin of a Lion*", which is used as text for year 12 higher school certificate students. As yet I have not received a reply from the Minister. The book, which could be described as pornography in the classroom, is higher school certificate text.

I received a complaint about the book from a male HSC student on behalf of a number of students. The book, which received the Booker Prize, is sick and disgusting. A large part of it refers to sex, either implicitly or explicitly. For example, page 20 refers to catching semen in a handkerchief and page 53 refers to the first seduction, in a hay bed. I shall quote various extracts:

... with her he kept waking, reaching to hold her flesh against him

Patrick put his arms around her and held her breasts

They were sitting on the floor leaning into the corner of the room, her mouth on his nipple, her hand moving his [four-letter word] slowly. An intricate science, his whole body imprisoned there, a ship in a bottle. I'm going to come. Come in my mouth. Moving forward, his fingers pulling back her hair ... he ejaculated, disappearing into her. She crooked her finger, motioning, and he bent down and put his mouth on hers. He took it, the white character, and they passed it back and forth between them till it no longer existed, till they didn't know who had him like a lost planet somewhere in the body

He was the first to bugger me

They stood together feeling each other's spines

In bed her nature, her transparency, had startled him. As did her sudden animal growl onto his shoulder when she lay on top of him

Here they pushed in frenzy, sexual madness

Sightings of her breasts

The brain and eyes interpreting pleasure in the other, these textures that brushed and gripped. He pivoted on her hands against his belly, moving deeper, moving back ...

A bizarre of muscles and flavours. She rubs his semen through his wet hair. Her shoulders bang against the blue-stained cupboard. A kitchen being [F'd]

This text has been provided to New South Wales State and Christian schools as a higher school certificate text for students. I have raised this issue in the past and received replies through the media. A St Aloysius student thought the book was good and read it three times because he enjoyed it. A student from Lismore High School studying for the HSC wrote that it was a great book. Is it any wonder that we have sexual perverts on the streets, young men accosting people! The Board of Studies should be sacked. I would not like any of my children to have to study this text. The book contains references also to antisocial behaviour, such as this reference on pages 55 to 56:

A Woman in Hamilton saw Ambrose with his throat cut. She woke one morning to feel blood on the pillow, looked up and saw someone was sawing her neck ...

The book describes thieves, with an element of admiration. The number of F-words in the book is unbelievable. The F-word is used for sexual intercourse. The book talks about "cow shit", and uses the terms "F-ing wop", "F-ing dago" and "P-ing into the waves". This language is in a book that students not only have to read but have to study and answer questions about in the higher school certificate. The Minister for Education and Training is a good man. He had a real problem getting *Top Girls* out of the schools, and he promised that witchcraft would no longer be used in the classrooms. I have been waiting for a reply since 19 August. The students are probably not showing their parents what they are reading. The Department of Education and Training needs to be cleaned up or cleaned out. The people responsible for these books should be sacked.

### NEPEAN HOSPITAL SERVICES

**The Hon. J. F. RYAN** [5.20 p.m.]: A number of serious concerns about Nepean Hospital have been raised with me by a local doctor who practises in the Penrith area. Even though I have no documents to substantiate these matters, I raise these issues because the doctor's knowledge of them appears to be particularly detailed and they correspond with other matters I have heard raised in the hospital system. I raise these concerns with a view to having the Minister for Public Works and Services, who represents the Minister for Health, pass them on to the Minister for a later response.

These serious problems at Nepean Hospital evidently arise from a budget overrun that will result

in a number of significant cuts in services at the hospital. According to the doctor—who at this time I choose not to name—the sorts of surgery likely to be affected include orthopaedic services, particularly knee and hip replacements, and oral and facial surgery. The hospital may lose access also to a neurosurgeon. The people of western Sydney have for a long time put up with a lack of health services. Having battled to win these services, they obviously would not appreciate them being withdrawn altogether because of budget constraints.

I understand one of the reasons for the cuts at the hospital is significant budget overruns within the current building extensions. It is believed that the building may be opened in time for the election but there will be no equipment to enable the extension to be usefully used. In other words, Nepean Hospital will be in a similar situation to Liverpool Hospital when that hospital was upgraded by the former Government but left underutilised until community pressure was put on the current Government to make the hospital fully operational.

I raise these matters in the House in the hope that I will receive some response from the Government. I would be only too happy to hear that these allegations are baseless. However, I have a grave fear there is substance to them. If they are true, I ask the Government to find the funds to address the issues legitimately raised with me by local medical practitioners.

### TAXIDRIVER SAFETY

**The Hon. FRANCA ARENA** [5.22 p.m.]: The problem of the safety of taxidrivers has been very much in the news recently despite the fact that these days most taxis have safety screens installed. As late as last week another taxidriver was assaulted despite having a screen in his taxi. This is a serious matter and the Government should consider it carefully. I received from the president of the taxidrivers section of the New South Wales Transport Workers Union, Mr Faruque Ahmed, a copy of the letter he sent to the Premier. The letter stated:

It is now nearly eighteen months since more than 1000 taxi drivers signed a petition calling for a Parliamentary Inquiry into their working conditions and safety aspects of the Taxi Industry. The Sun Herald (8-9-96 . . . ) in an article entitled *Cabbies Call For An Inquiry* reported how Labor MP Paul Gibson, Chairman of the all party Staysafe Committee had met with you the Premier on Friday September 5 1996 "to discuss the feasibility of an Inquiry (into the taxi industry)".

Some four months later an article appeared in the Sydney Morning Herald (26.1.97) under the heading "*Cabbies Flagging A Flagfall*" where the issue of drivers safety and

working conditions again canvassed in the media. In this article there was reference to the Staysafe Committee "Urging an Inquiry into the Taxi Industry". The article noted that Paul Gibson would be meeting with you "within the next fortnight to seek terms of reference". The article also noted that taxi drivers had separate meeting with you concerning the same subject.

Apart from good offices of the Staysafe Committee Chairman Mr Paul Gibson MP, all the other cross party members of the Committee have in their earlier correspondence indicated their support for such an Inquiry into the taxi industry.

The letter continued:

Over the last two years tens of thousands of people signed a petition to support an Inquiry into the taxi industry and I have faxed one thousand such petitions to you directly. Yet, you have not announced the long awaited Parliamentary Inquiry.

Mr Ahmed received a reply from the Premier but he did not address the important question of an inquiry into the taxi industry. Mr Ahmed is none the wiser as to what the Government is going to do. After the recent events it is very important to have an inquiry into the taxi industry. I hope the Government heeds the call of the industry and holds a comprehensive inquiry into the industry. Such an inquiry is important to the city and to the community.

### DEATH OF Mrs YVONNE GRAHAM

**The Hon. I. COHEN** [5.25 p.m.]: Sadly I recently attended the funeral of Mrs Yvonne Graham, Arakwal elder, custodian and friend. Passion for promoting Aboriginal cultural values kept Yvonne Graham alive during her six-year battle with cancer. On Wednesday about 200 people attended a Brunswick Heads service and wake for Mrs Graham, 53, who died at Mullumbimby hospital on 26 August. The large gathering demonstrated the affection and respect for Mrs Graham in the Aboriginal and broader community, particularly from Brunswick Heads south to Cabbage Tree Island.

Mrs Graham was known by family members and friends alike as Aunty Eve. She was the daughter of Linda and Jimmy Kay and the granddaughter of Harry Bray, after whom Brays Beach at Broken Head was named. Mrs Graham grew up in a large family living along the coastal strip from Cape Byron to Broken Head. She will be sadly missed by her husband, Warren; her son, Norm; her sisters, Lorna Kelly, Linda Vidler and Dulcie Nicholls; and her many nieces and nephews.

Aunty Eve returned to Byron shire about six years ago from Gippsland, Victoria, to help preserve Aboriginal sites and to promote Aboriginal cultural heritage. She took back her custodial role and worked with her sisters to gain that recognition. Her

niece, Ms Stewart, said, "Her passion and spiritual strength for promoting Aboriginal culture values and heritage kept her alive in her last years." Byron shire residents knew Mrs Graham as one of the Kay sisters, who were accepted as native title claimants over Crown land and sea from Belongil to Broken Head. The sisters were recognised by many in the community and by authorities, including Byron Shire Council and Cape Byron trust, as the Arakwal clan custodians of the Byron area.

Mrs Graham and her sisters have been responsible for the resurgence in interest in Byron shire's Aboriginal cultural heritage. Their native title claims have been supported recently by the local Women for Wik and Australians for Native Title and Reconciliation groups. As a child, Yvonne lived with her large family in a tin shack at a camp between Ironbark Avenue and Tallow Beach, near the site where Byron Bay High School was later built. Mrs Graham was a shy person but enormously proud of her cultural heritage. She kept a collection of newspaper clippings, documents and photographs preserving her family's history.

It is a bittersweet statement that after many years of work by Yvonne and her sisters an agreement with Byron Shire Council, as a great first step on the road to achieving reconciliation, was entered recently. The agreement acknowledges the existence of Aboriginal culture in the area since time immemorial, and the council made a simple statement of recognition. Council voted eight to one at its meeting last week to sign the agreement with the Arakwal people. It is a shame that Yvonne Graham did not live to witness the signing. It is an example to many other communities in New South Wales of white people and indigenous people not only working together but forming a strong bond of friendship.

Yvonne will be long remembered as a fighter for her cause, one who loved nothing more than to go walking along the Brunswick River or near Cape Byron and throwing out a fishing line, as her traditional people have done for so many years. She worked quietly towards reconciliation and had a genuine love for all people in the community. It is fitting that although Yvonne has passed away, her legacy will remain and the Byron community will be at the forefront of reconciliation in this State.

#### SMOKING BY SCHOOLCHILDREN

**The Hon. Dr A. CHESTERFIELD-EVANS** [5.30 p.m.]: Earlier today I spoke about the \$1.3 million being spent by the Minister for Health on tobacco control. That figure has to be further revised. There were five staff employed by the Quit campaign but there are now only two, and they have

been transferred to the Minister's public relations department. There is no apparent action on Quit in New South Wales at all. The heart and cancer offensive against tobacco, launched at Darling Harbour today, shows that Australian children under the age at which they can legally smoke spend \$100 million on tobacco, approximately \$64 million of which is taken in tax. Approximately \$20 million of that tax comes from New South Wales children.

Children who are buying cigarettes illegally in New South Wales generate \$20 million in revenue for the Government, yet its Quit campaign spends less than \$1 million. Perhaps not even all that amount is being spent; the expenditure is falling. Such a small amount of funding demonstrates the Minister for Health's extreme lack of care for smoking prevention campaigns. I am concerned that the term "health promotion" has been replaced by the term "health improvement", which indicates a much less promotional approach and much more linkage to measurable disease outcomes rather than likely disease outcomes related to behaviours established in youth.

The cancer death rate relates strongly to the age at which children start to smoke. As they get older, they have had more years of smoking. Teenage smoking is a slow-motion emergency. It is a future health time bomb. Expenditure on Quit funding must be reinstated to its previous level. It could be said that New South Wales has consistently spent less than other Australian States, and that position is not improving under the current Minister for Health. That is a disgrace that must be tackled. The Australian level of funding for anti-smoking campaigns is much lower than it has been. Despite increasing documentation relating to the evils of tobacco, this State is going backwards—as is the country as a whole.

*[Time for debate expired.]*

#### HEALTH ADMINISTRATION

**The Hon. R. D. DYER** (Minister for Public Works and Services) [5.32 p.m.]: During the course of this adjournment debate the Hon. M. R. Kersten, the Hon. J. F. Ryan and the Hon. Dr A. Chesterfield-Evans raised various matters involving the administration of the Minister for Health. Given that I represent the Minister for Health in this Chamber, I shall request that the Minister give consideration to each of the matters raised by those honourable members during the course of this debate.

**Motion agreed to.**

**House adjourned at 5.32 p.m. until  
Tuesday, 22 September 1998, at 2.30 p.m.**