



**Treasurer of New South Wales
Australia**

Wednesday 23 October 2002

Lynn Lovelock
Acting Clerk of the Parliaments
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Lynn,

**Standing Committee on Law and Justice:
*A NSW Bill of Rights***

Please find attached the Government's response to the recommendations of the above Report.

Would you please arrange for this response to be tabled.

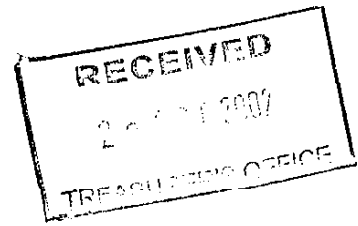
Yours sincerely

**Michael Egan
Treasurer**

*Received by me Thursday
24 October 2002 and
authorised to be published
Lynn Lovelock
A/Clerk of the Parliaments*



Premier of New South Wales
Australia



The Hon M R Egan MLC
Treasurer, Minister for State Development and
Vice President of the Executive Council
Level 33, Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

21 OCT 2002

Dear Mr Egan

I am writing to advise the Government's response to the report of the Legislative Council's Standing Committee on Law and Justice, *A NSW Bill of Rights*, released on 3 October 2001.

The Committee made two recommendations:

1. That a parliamentary Scrutiny of Legislation Committee be established, based on the Senate Scrutiny of Bills Committee; and
2. that the *Interpretation Act 1987* be amended to permit judges to consider international treaties and conventions to which Australia is a party when there is an ambiguity in a NSW statute. (The Standing Committee stated that this would confirm the position at common law.)

In response to the first recommendation, the Government introduced the *Legislation Review Amendment Bill 2002* to expand the role of the Regulation Review Committee to include a scrutiny of Bills function. To reflect its broader role, the Committee will be retitled the Legislation Review Committee.

As you would be aware, the Bill was passed by the Legislative Council on 25 September 2002.

In relation to recommendation 2, the Government does not agree with the Committee's view that this will confirm the position at common law. At common law, the courts may consider a treaty in interpreting ambiguous legislation if the legislation was intended to give effect to the treaty.

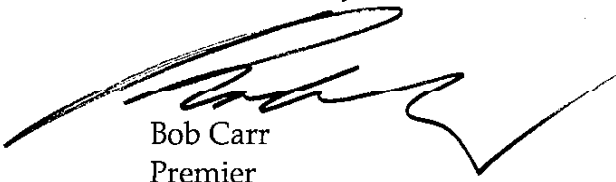
The Government does not understand the common law position to be that ambiguities in State legislation may be resolved by reference to treaty law (as opposed to customary international law) regardless of whether the treaty was considered in the legislation itself or in the course of its passage.

Section 34 of the *Interpretation Act* specifically permits any treaty or other international agreement that is referred to in an Act and any speech made in the second reading debate to be considered in interpreting the Act.

No other Australian jurisdiction has a provision of the kind recommended by the Committee. The Government believes that it is important to maintain maximum consistency between states and territories on issues of statutory interpretation.

Accordingly, adoption of the recommendation does not appear to be warranted.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bob Carr', with a long horizontal stroke extending to the left and a checkmark-like flourish at the end.

Bob Carr
Premier