LEGISLATIVE ASSEMBLY

Tuesday, 16th November, 1993

———

Mr Speaker (The Hon. Kevin Richard Rozzoli) took the chair at 2.15 p.m.

Mr Speaker offered the Prayer.

QUESTIONS WITHOUT NOTICE

———

POLICE PROTECTION OF PAEDOPHILES

Mr CARR: My question without notice is directed to the Premier. In view of matters previously raised by the Opposition and broadcast on "A Current Affair" last night, will the Government now establish a full public and open inquiry into police protection of paedophiles in New South Wales, going back to the circumstances of the Mr Bubbles affair?

Mr FAHEY: The Leader of the Opposition and all other honourable members would know that this matter was the subject of investigations some time ago and police have stated that charges have been laid against various officers. Those matters due to come before the court will be dealt with appropriately by the court, as they should be.

Mr SPEAKER: Order! I call the honourable member for Campbelltown, the honourable member for Ashfield and the honourable member for Riverstone to order.

Mr FAHEY: To endeavour now to seek to jump in on the situation on matters that have been around for some considerable time and to seek full and open inquiries, and all the rest of it, clearly reveals that the only time the Opposition ever reacts is when something occurs on the Derryn Hinch program, appears in the *Sydney Morning Herald*, or something of that nature.

Mr SPEAKER: Order! I call the honourable member for Heffron and the honourable member for Liverpool to order.

Mr FAHEY: The matter is the subject of consideration by the Minister for Police today and I have discussed it with him. Should the Leader of the Opposition want more details perhaps he might like to ask the Minister for Police.

MABO LEGISLATION COMPENSATION AND ADMINISTRATIVE COSTS DECISION

Mr JEFFERY: My question without notice is directed to the Premier and Minister for Economic Development. Has he received a copy of the Federal Government's proposed Mabo legislation? If so, does it nominate who is to be responsible to meet compensation claims and administrative costs?

Mr FAHEY: The honourable member for Oxley, like all Government supporters, is most concerned about the way in which this matter has been handled by the Federal Government. The short answer to the question is no, I have not received a copy of the legislation proposed by the Federal Government. I looked at a videotape of the Prime Minister's address on television last night, and noted with interest that the Prime Minister stated that seven of the eight Premiers and Chief Ministers supported the proposed legislation of the Federal Government. However, on a number of occasions I have made it clear that I have some concerns about what might come forward. Those concerns can only properly be addressed when the Federal Government makes the legislation available to the States and gives us the opportunity to examine it thoroughly to see if it does meet those concerns -

Mr SPEAKER: Order! I call the Deputy Leader of the Opposition to order.

Mr FAHEY: - and meets the objective that the Prime Minister constantly talks about - that is, a national outcome on this important matter. It is fair to say that this morning the Federal Minister for Aboriginal and Torres Strait Islander Affairs, Mr Tickner, did not help the position. He had the gall to tell the States what they should or should not do. Of course, while ever the Prime Minister wants to have two of his henchmen, in the guise of Tickner and Walker, running around the countryside and confusing the issue, it is clear that we are not likely to get an outcome to the satisfaction of all the States and Territories. For some time I have expressed concern. It is important that the House be aware that yesterday I wrote again to the Prime Minister reminding him that he had not addressed the concerns I had raised previously in writing and on a number of occasions with him.

It is important to note that in all this time and in discussions that have taken place I have been at pains to ensure an outcome that is in the interests of all Australians. There is likely to be that outcome only when we receive the legislation and have meaningful discussion on the subject. I shall advise the House of the concerns I still have. I outlined the extent to which the bill will be a special measure in order to authorise effectively the validation of titles. Though there was some rhetoric during the course of last evening's telecast, we still do not know if the validation of titles is there in a manner which removes the uncertainty that has existed for several months. I have said also that we need to know the extent to which the existing State land management procedures might continue to operate, and this is very important.

Management of land titles is a matter over which the States have always had control and must always maintain control. Quite frankly, the Commonwealth

has no idea of what is involved and no experience in this matter. That has been one of the problems all the way through; the Commonwealth had no ability to understand what it means in terms of that management and the various categories of title that exist in the States. In the past the Commonwealth has never had to operate in that area. I have insisted upon the continuation of access to beaches for all Australians. That has not been made clear, though it was referred to in a press statement that was released at the beginning of last month.

Further, I have said that for native title claims to succeed there must be shown to be a physical connection with the land. One need only visit the Northern Territory and examine what has occurred there, with so much of the land, and the uncertainty that has resulted from claims based upon anything but physical attachment. An enormous tract of land in the Northern Territory has been tied up in such a way that it is non-productive and therefore not in the interests of Australia's economy, let alone the economy of the Northern Territory. For those reasons, if we follow the decision of the High Court which related to physical connection, clearly that is the way the legislation should come forward in Canberra.

Also, I have asked about the special rights of negotiation for native titleholders and claimants. Is it in fact title that gives them some special right to come forward at some time, over and above the rights that exist for all Australians, including Aborigines who have other forms of title in this State and in other parts of Australia? I have pointed out that we need to clarify the ownership of and access to natural resources. We all know that the Crown has access to and ownership of natural resources, which is again in the interests of all Australians. Is it intended that there should be something more? Is that contained in the legislation that is perhaps coming

forward this week?

How are these matters dealt with? Will there be forum shopping? Will it be permitted to the extent where people can choose between Commonwealth and State tribunals to determine their claims? Further, I have requested that we be provided with a cut-off date for validation of past grants. That date has moved from 1st July, then to 31st December and subsequently to 1st July next year. Is it in the past or is it in the future? Perhaps the most important matter that requires clarification is the question of funding arrangements for compensation and the legal and administration costs.

Of course, the outcome is not known to anyone, but it was estimated by the Queensland Premier at the meeting that took place in Melbourne on 8th and 9th June that the cost of dealing with what was seen to be an assessment of likely claims in Queensland came to something in the vicinity of $90 million - that is for just the administration through tribunal processing of claims in Queensland alone. That, of course, is of great concern to the budgetary process of all States. It is of particular concern in New South Wales because we all know that approximately 7.5 per cent of land tax is appropriated to the Aboriginal Land Council and that has resulted in about $300 million in payment over the past decade and has meant also that approximately $100 million has been paid to the Aboriginal community in the past two financial years.

I am not arguing with that, but if we are now being taken over by Federal law which brings with it the additional costs of tribunals and the administration of numerous claims that might be made and requires also compensation to be paid in some shape or form, the people of New South Wales will ask: is this fair and is it in the interests of all Australians? Though I will not walk away from what has happened under the Aboriginal Land Rights Act, I simply say that New South Wales has taken this step far in advance of any other State and long before the Commonwealth agreed to it.

I do not believe that we should now have further obligations imposed upon us. The question of compensation and cost of administration must be addressed by the Prime Minister. He did not address it last night and that, of course, will be looked at very closely whenever the legislation comes forward. It is important to deal with this matter in a manner which brings about a desired result for all Australians. I believe that deep down that is what the Prime Minister wants, too. Therefore, I find it extremely difficult to understand why, with the co-operation he has received from all sides of politics across Australia, he has failed to give us the opportunity to resolve this matter through discussions before he proceeds with some form of legislation.

I say again: New South Wales will reserve its judgment on the outcome of the Commonwealth's legislation on Mabo. I have clearly stated the matters I believe are of importance to this State and all its citizens. When we see how the Commonwealth has addressed these concerns, it will become apparent what must be done at State level. I will not progress the legislation that was put forward in exposure draft form some months ago until such time as I know what is contained in the Commonwealth legislation now proposed. That legislation is supposed to be available this week but, unfortunately, this completely confusing episode has already drifted over several months simply because the Prime Minister had other matters on his mind. The confusion was not helped by two Ministers travelling the countryside upsetting various people, nor by other Ministers talking to various interest groups, including Minister Crean talking to farmers in this State.

It is coming to the crunch when the legislation will be available. I do not believe there is any way the Prime Minister can go forward and expect to get support by naming States that are supposedly supporting him and naming the one State he claims is not, even though none of the other States has mentioned many of the concerns I have expressed today and on numerous other occasions. None of those concerns has been addressed or dealt with by the Commonwealth. When the Commonwealth legislation is finally dealt with, it must be with those concerns at the forefront.

POLICE PROTECTION OF PAEDOPHILES

Mrs GRUSOVIN: My question without notice is addressed to the Minister for Police and Minister for Emergency Services. Why did the Government hide the fact, from at least May 1989 before the committal proceedings, that then Detective Senior Sergeant Ron Fluit, the officer in charge of the failed Mr Bubbles case, was an alleged principal in a police paedophile protection extortion racket?

Mr SPEAKER: Order! I call the honourable member for St Marys to order.

Mr GRIFFITHS: I thank the honourable member for Heffron for her question. Clearly it requires a detailed response and specifics. I will give a detailed answer at the appropriate time.

Later,

Mr GRIFFITHS: Earlier the honourable member for Heffron asked me a question. I advise that the matter has been fully investigated by the police task force Operation Speedo. As the honourable member for Heffron well knows, the Seabeach incidents occurred around October 1988. Alleged offenders in relation to those allegations were arrested on 6th November and 25th November, 1988, respectively. Those matters were discharged at the Glebe Local Court on 11th August, 1989. Allegations concerning the officer named by the honourable member for Heffron were first raised during the investigative phase of Operation Speedo in April 1989, four months after the Seabeach defendants had been discharged by the court. A review was ordered by the Government to investigate whether the original Seabeach investigation had been properly conducted. The review was carried out by the professional integrity branch of the Police Service. The findings were that there was no evidence of any impropriety by the officer named by the honourable member for Heffron, and I am sure she will apologise. Under those circumstances, there was absolutely no cover-up.

POLICE PROTECTION OF PAEDOPHILES

Mr MORRIS: My question without notice is directed to the Minister for Police and Minister for Emergency Services. Can the Minister advise the House of the status of investigations into allegations of police involvement in the protection of paedophiles?

Mr Whelan: On a point of order. The very essence of question time relates to questions without notice. The honourable member for Heffron asked a question of like kind. The Minister said he was going to get the information. Now the honourable member for Blue Mountains has asked a similar question which is clearly out of order, yet the Minister is preparing to answer it. The Minister is trivialising question time.

Mr SPEAKER: Order! I call the honourable member for Londonderry to order. The honourable member for Ashfield obviously did not hear the full text of the question. As I understand it, the honourable member for Heffron asked a very specific question in regard to a particular policeman concerning a particular matter and in response the Minister for Police said he would get all the information sought and reply in detail at an appropriate time. The question asked by the honourable member for Blue Mountains is more general, and deals generally with a matter that has arisen over the past couple of days. I rule the question in order.

Mr GRIFFITHS: When such a sensitive issue is raised concerning young children it is an absolute tragedy that this group opposite laughs. What a disgrace!

Mr SPEAKER: Order! I call the honourable member for Hurstville to order.

Mr GRIFFITHS: That is clearly indicative of poor leadership.

Mr SPEAKER: Order! I call the honourable member for Bulli to order.

Mr GRIFFITHS: Like me, the honourable member for Blue Mountains is committed to maintaining the integrity of the Police Service and protecting our young children. Last night the Channel 9 television program

"A Current Affair" ran a story about alleged police corruption and involvement in a paedophile protection racket. This is not a new story. Allegations regarding the matter were raised in this House on 6th September, 1990 - three years ago - and in the *Sydney Morning Herald* the following day. The facts are as follows. In late 1989 the police internal investigation watchdog, which was then called the internal police security unit, or IPSU, completed investigations relating to the activities of a police sergeant stationed at Kings Cross. That operation, codenamed Hawkesbury, uncovered a range of disturbing allegations. As a consequence, on 29th November, 1989, the IPSU established a special operation codenamed Operation Speedo.

Following the gathering of intelligence and interviews, a range of separate but related matters were clearly identified. They involved issues between a small number of police and known sex offenders dating back to the mid-1970s. A wider investigative approach was necessary. In January 1991 an expanded Operation Speedo was established as a special task force. That task force included officers skilled in internal investigations and child abuse. A comprehensive report was produced that documented extensive links between a number of police officers and paedophiles. About 30 complaints were investigated. Of those complaints investigated, 12 were sustained. As a result, between 15th February, 1991, and 26th February, 1992, 116 charges were laid against four police officers and five civilians.

A number of charges arising out of Operation Speedo relate to the alleged extortion of money from a paedophile by police officers. A former sergeant and two constables will face trial on 14th March,

1994, in relation to this matter. The convicted sex offender Colin John Fisk, who figured prominently last night in the story run by "A Current Affair", is a witness in that case. It is hoped that his appearance will not prejudice the trial. One might question what purpose is served by Fisk appearing on television at this time. I am advised that the other matters raised in the story were fully investigated by the police. The allegations made by the victims identified as Sam and Ben were not pursued by the Director of Public Prosecutions because of evidentiary problems. I am sure that I speak for all honourable members when I say that sexual abuse of children is one of the most obnoxious acts of human depravity. It is also clear that any collusion between police and paedophiles is totally abhorrent. In the case of Operation Speedo the facts show that the Police Service acted decisively. More than 100 charges have been preferred.

Mr SPEAKER: Order! I call the honourable member for Hurstville to order for the second time.

Mr GRIFFITHS: Appropriate action has been taken under this Government, in stark contrast to the pathetic performance of the previous Labor Government.

STATE WARDS IN KINGS CROSS CLUBS

Mr WHELAN: My question without notice is directed to the Minister for Community Services, Minister for Aboriginal Affairs and Minister for the Ageing. Are four New South Wales State wards, aged 13 to 15 years, working as strippers and prostitutes in the Pink Panther and the Pink Pussycat establishments at Kings Cross? Did a joint Department of Community Services-police raid on the clubs last weekend fail to locate these children because of a tipoff?

Mr SPEAKER: Order! I call the honourable member for Eastwood to order.

Mr WHELAN: Were one child's belongings found in a room where prostitutes have sex with clients?

Mr LONGLEY: I will make the relevant inquiries. Clearly this is a matter of some detail. I trust the information will be treated with the appropriate sensitivity, although that appears to have been lacking from the other side.

Later,

Mr LONGLEY: The Department of Community Services has a team of officers in Kings Cross to ensure that young people and runaways do not congregate in the area. The Department of Community Services adolescent team operates street patrols, as well as the regular monitoring of establishments where young people may be exposed to moral and physical danger. On regular occasions, and sometimes as a result of information received, departmental officers join with the police force to visit these establishments. These departmental officers from the Adolescent Referral and Support Unit, in close co-operation with the Police Service, regularly patrol establishments at Kings Cross to look for underage people frequenting these establishments. Last weekend during a patrol four police officers and two community services officers visited several clubs following receipt of information that there may be one or more State wards on the premises. No State wards were located on the premises. However, I am advised that belongings of a State ward were found.

Neither I nor the department finds it acceptable that young people are exploited by club operators or anyone else in Kings Cross. If the Kings Cross adolescent unit is aware of young people being in these establishments, the police are notified immediately and a joint visit is arranged as soon as possible. The department has a permanent adolescent unit set up in Kings Cross to ensure, where possible, that any young children who make their way to the area do not remain there. The unit works constantly with runaways who go to the Cross, whether or not they are State wards. The unit works either to reunite them with their families or to ensure they are placed in adequate care. Young people in need of care is an issue of paramount consideration to me and the Government. The whole focus of substitute care reform is to provide placement for State wards that is community based and appropriate to their individual needs. If the Opposition were so concerned about the needs of State wards it would add its support to the Government's new directions for substitute care rather than continue to support the placement of children in cold, hard institutions.

DAM SAFETY

Mr GLACHAN: My question is directed to the Minister for Land and Water Conservation. What action is the Government taking to ensure the continued safety of dams in New South Wales? In particular, will the Minister advise on maintenance programs for the State's dams?

Mr SOURIS: Water storage dams are vital infrastructure on which our health, industry and standards of living are totally dependent. Australia has 400 dams higher than 15 metres, 125 of which are in New South Wales, with the majority of dams in this State being between 35 and 40 years old. Australian dams have had an excellent safety record since the failure of the Briseis Dam in Tasmania in 1929. Since then no large dam in the country has failed. Surveillance of dams in this State is undertaken by the New South Wales Dams Safety Committee, whose annual report I will table soon. Since the committee's inception in 1979 it has identified dams in need of remedial work and, with the support of government, that work has taken place. During the past year work on the Nepean, Moolarben Creek and Captains Flat dams has been completed, with work on Burrinjuck and Pindari dams scheduled for completion in 1994.

Since 1979 remedial work on 23 dams in New South Wales has been completed. The committee's report contains an updated list of dams with notes on

the progress in determining the seriousness of deficiencies and the remedial measures being undertaken. The committee has identified 21 dams requiring upgrading, with inadequate flood capacity being the most serious current dam problem. Inadequate flood capacity is not restricted to New South Wales; it is a worldwide problem. Action is being taken on all these dams and, as I have already said, remedial work on Pindari and Burrinjuck dams will be completed next year. As the committee has done in its previous reports, it mentioned that Warragamba Dam has inadequate flood capacity. The House might be interested to know that this Government approached the Commonwealth for help in funding the improvements to Warragamba Dam. But, of course, the Prime Minister in a letter gave an absolutely flat "no" to the people of Sydney and New South Wales. Following the Government's request for assistance in funding this flood capacity remedial measure at Warragamba Dam, the Prime Minister wrote:

I suggest that in considering possible funding options for this project, it would be appropriate for your Government to seriously consider a levy on Sydney water users to pay for the works, given that the Warragamba Dam provides the bulk of Sydney's water supply.

The Commonwealth would require more details on the proposed works and on funding options, including a levy on water users, before considering your request further.

That is a disgraceful response from the Prime Minister of this country to such an important issue that affects so many residents in this State. Indeed, the New South Wales Premier has written again to the Prime Minister seeking assistance in the matter I have just outlined. The Dams Safety Committee in referring to the chances of the occurrence of a premium flood said that it is of the view that little certainty exists with predicting the occurrence of such a flood from either weather or earthquakes. The committee said that existing records cover a maximum of 200 years; therefore, it is extremely difficult to predict even a one in one thousand year flood let alone the universally accepted prediction of a one in one hundred thousand year flood.

Last week, following discussions with the honourable member for Albury, I issued a press release to the Albury media about water seeping from the bottom of the earth face of the Hume Dam. That issue has nothing to do with the findings of the Dams Safety Committee on the Hume Dam. The cause of the seepage was a drainage problem on the roadway on top of the dam following recent heavy rain. The water worked its way down between the earth face and the concrete membrane of the dam wall. Measures have been taken to fix the drainage problem. I can also inform the House that the Murray-Darling Basin Commission is contributing $721,000 for works to address safety issues.

Dam owners are actively involved in remedial studies or upgrading works to ensure the safety standards of dams in New South Wales. Dam owners have primary responsibility for the safety of the dams they own, and they are legally liable in the event of a failure. The function of the Dams Safety Committee is to oversight the activities of dam owners and to ensure they meet appropriate standards. The committee currently maintains records on 226 dams and ensures that owners carry out regular maintenance and safety surveillance. If necessary, the committee can order that updating works be carried out. That, however, is a rare case. Most owners are aware of their potential liability in the event of a dam failure and voluntarily undertake remedial programs where deficiencies have been identified.

The committee is also responsible for advising on the extent of coalmining under stored water to ensure mine safety. Since its inception, the committee has recommended mining under and adjacent to dam reserves, resulting in the extraction of 1,700,000 tonnes of coal, a resource that otherwise would not have been available. During the year, the committee continued to review and update its technical requirements to ensure that they represent Australian and world best practice and implemented a program of total quality assistance for all its clients. It also promoted a pilot study by the Commonwealth Scientific and Industrial Research Organization on the public perception of risks from dams. Not surprisingly, the public expects dams to be very safe, although, of course, there is no such thing as an absolutely safe activity anywhere.

Dam owners, whether they be the State Government, local government or private owners, are doing their utmost to ensure that all dams in New South Wales are as safe as possible. The Dams Safety Committee continues to initiate strategies to achieve cost effective solutions. These have included the establishment of expert subcommittees on hydrology and emergency management and participation in the technical activities of the Australian National Committee on Large Dams and the International Committee on Large Dams. The committee has also been active in liaison and educational activities to help dam owners, whether they be government, local government or private owners, to carry out their duties effectively.

The Government is proud of the fact that through the Dams Safety Act and the activities of the Dams Safety Committee, New South Wales has established itself as a leader in the Australian field and at the forefront of international practice. The overall objective is to ensure that major dam incidents and failures do not occur in New South Wales. A comparison with similar activities overseas shows that the New South Wales system is, indeed, very cost effective. I thank the honourable member for Albury for his question, noting the particular

reason for his interest in the Hume Dam near Albury.

POLICE PROTECTION OF PAEDOPHILES

Mr ANDERSON: I direct my question without notice to the Minister for Police and Minister for Emergency Services. Why did it take 18 months to establish a task force to investigate the very serious allegations made by a police officer informant and a self-confessed paedophile, Colin Fisk, about a police paedophile protection extortion racket?

Page 5384

Mr GRIFFITHS: This House should understand very clearly that each year in the New South Wales Police Service there are three million incidents.

Mr SPEAKER: Order! I call the honourable member for Londonderry to order for the second time. I call the honourable member for Granville to order.

Mr GRIFFITHS: To expect me to know the specific detail of every one of those three million cases would be absolutely ridiculous. When the honourable member for Liverpool talks about the exact, precise details I will give him an answer in detail so that he will understand fully the decisions taken at the time.

ATHLETE TRAINING PROGRAMS

Mr BLACKMORE: My question without notice is directed to the Minister for Sport, Recreation and Racing. What initiative is the Government taking to assist New South Wales athletes to compete successfully at the elite international level? Will the Government ensure that athletes from country New South Wales also have access to training programs?

Mr DOWNY: This afternoon I would like to welcome 50 students from the Tellarah Public School, which is in the electorate of the honourable member for Maitland.

Mr SPEAKER: Order! I call the honourable member for Kogarah to order.

Mr DOWNY: I am sure that some young students in that group will be champions of the future, competing in the Sydney Olympic Games in the year 2000. Recently I received a report commissioned by the Department of Sport, Recreation and Racing 12 months ago. This report, which was prepared by Coopers and Lybrand, came about as a result of extensive consultations that occurred with the State's sporting organisations about the direction New South Wales should take in the development of its elite athletes. For the information of honourable members I point out that, basically, the elite athlete development sporting pyramid has four levels. At the bottom is the participation level. Of course, the vast majority of people who participate in sport usually undertake some form of training once or twice a week. That is where the majority of government funding in this country goes, so that as many people as possible can participate in sport. The next level is the development stage.

Mr SPEAKER: Order! I call the honourable member for The Entrance to order.

Mr DOWNY: Athletes who take part in the development stage have above average ability and potential. Programs for this level focus on training for qualified coaches, with a heavy emphasis on laying the proper foundations for athletes' technical, physical and psychological development. The next level is the pre-elite level - talented athletes who are on the verge of becoming high performance athletes. Athletes achieving such performance may require a better opportunity for competition and intensive or specialised coaching and training. At the top of the pyramid we have the elite athletes - the high performance athletes who compete nationally and

internationally.

Some concern has been expressed over the performance of athletes at the elite level in the past decade. The Olympic Games represent comprehensive, elite international competition. Often, when determining the performance of our athletes, we use the Olympic Games as the means by which to judge just how successful our sporting programs are. For instance, at the 1992 Barcelona Olympic Games, New South Wales, with 34 per cent of the overall Australian population, provided only 22 per cent of the Australian Olympic team. In other Australian States and Territories, for example, the Australian Capital Territory and Western Australia, the situation is somewhat different. The Australian Capital Territory, which has 2 per cent of the Australian population, produced 10 per cent of the Australian Olympic team. Western Australia, with 10 per cent of the Australian population, produced 17 per cent of the Olympic team.

The situation at the 1984 and 1988 Olympic Games was very much the same. There, of course, lies the rub. The answer becomes quite clear when we look at the figures for New South Wales, Western Australia and the Australian Capital Territory. The Australian Capital Territory has the Australian Institute of Sport. Western Australia plays host to many talented and elite athletes because of the programs offered to them by its Institute of Sport. What has happened in the past and what is continuing to happen is that New South Wales athletes who reach the pre-elite stage leave New South Wales to go to other States and to the Australian Capital Territory because of the programs offered by those institutions. The report that I received recognises that New South Wales has the best programs for athletes up to that pre-elite stage. That factor is recognised also by most sporting organisations in New South Wales.

Mr SPEAKER: Order! I call the honourable member for Coogee to order.

Mr DOWNY: But from that point on New South Wales has a problem. That is why the Government commissioned this report. New South Wales has many programs for its pool of talented athletes. It has the State scholarship scheme, the country athletes program - I am sure my colleagues from the country are impressed with that program - the talented athletes scheme and the State Elite Athlete Squad. Most of these programs centre around the Academy of Sport at Narrabeen. The Government, in its recent Budget, increased funding for the Elite Athlete Squad by 32 per cent to include four new sports and disabled athletics for the first time. Funding was increased also for the sports scholarship scheme, an interesting scheme because it is a co-operative effort between the Government and the corporate sector.

Page 5385

Mr Newman: We started it.

Mr DOWNY: You did not start that one.

Mr SPEAKER: Order! I call the honourable member for Cabramatta to order.

Mr DOWNY: In recent years the academy at Narrabeen has been developed into the most comprehensive sports development facility outside the AIS and it has some of the best sporting professionals in the country. Yesterday I had the opportunity to again visit that academy and I was introduced to Linford Christie. Linford Christie spends three months of the year at Narrabeen; that is how good the academy is. We have international athletes coming to Narrabeen to do their training. The problem with New South Wales talent development programs is that they do not provide the sort of focus we need for the development of our elite athletes. That point was made in the report from Coopers and Lybrand, which was commissioned by this Government. We have not kept pace with other States in this area. Other States have a clear commitment to achieving success at national and international open levels of competition. They have integrated the control of all high performance programs centrally, identified target sports, narrowed the focus of their programs and allocated resources accordingly.

As I stated earlier, the Government does not intend to move away from its policy of participation in sports

for all New South Wales residents. If we take into account the programs provided in this State, they reflect that we are committed to that policy. The Government will continue to be committed to providing sporting opportunities for all residents in this State. This year an amount of $2.5 million has been spent on the developing areas assistance scheme. We have kept up funding for the capital assistance program and we have a range of programs from Learn to Swim for toddlers and Walking for Pleasure for our more senior citizens. Those programs are all popular and are much in demand throughout the community.

Mr SPEAKER: Order! I call the honourable member for Cabramatta to order for the second time.

Mr DOWNY: The solution suggested by the report for our elite programs is to establish an institute of sport in New South Wales. This will be a decentralised multicampus institute situated in metropolitan and country areas. There is great merit in the suggestion. One of the issues about the institute that has come to the fore is that most elite sports coaches and administrators do not particularly want a carbon copy of the Australian Institute of Sport in Canberra. One of the leading swimming coaches at Narrabeen suggested that it would be much better to have an institute of sport that is non-residential, so that athletes have the opportunity to study at the institute and live at home rather than having to pack their bags and live for a time on campus at a remote institute. That issue needs to be resolved. It is clear that most coaches and administrators would welcome better co-ordination of the elite athlete development programs, with a clear focussing on targeted sports.

Athletes in rural New South Wales who are currently serviced by regional academies and receive financial assistance from country athletes and sport scholarship schemes will not be neglected in such a network. Many options are available. I will be considering all those options over the next few months to ensure the best possible answer for New South Wales. If a multicampus network is established, the headquarters could be at Narrabeen or at the Olympic facility at Homebush Bay. There would be the opportunity to set up metropolitan facilities at places such as the international rowing facility at Penrith. A baseball centre is being developed at Homebush Bay, and equestrian facilities are being developed at Eastern Creek. The international athletics facility at Wollongong could be utilised for such a multicampus institute of sport. That should interest honourable members from the Illawarra area.

The estimated cost ranges from $1.4 million to $2.5 million, depending on the structure of the institute. I am sure all honourable members will agree that it is an exciting prospect. It will create much interest in the sporting community. I hope to be able to report to the House early next year on progress with the institute. I am sure all honourable members will join me in wishing the Socceroos every success in their match against Argentina. No doubt the Leader of the Opposition would be more than happy to join with us in wishing them every success in Argentina. We want to see the Socceroos in the United States next year.

POLICE PROTECTION OF PAEDOPHILES

Mrs LO PO': My question without notice is directed to the Minister for Police and Minister for Emergency Services. Did the police investigate an allegation that Detective Senior Sergeant Ron Fluit and another detective at Redfern in 1985 were paid $8,000 by a known paedophile to drop a child sexual assault complaint against him?

Mr SPEAKER: Order! I call the Minister for Multicultural and Ethnic Affairs to order.

Mrs LO PO': What was the result of the investigation and who was the paedophile involved?

Mr GRIFFITHS: Since that incident 23 million incidents have occurred. I vaguely recall reference to that matter.

Mr SPEAKER: Order! I call the honourable member for Blacktown to order.

Mr GRIFFITHS: It was while the honourable member for Liverpool was Minister. I undertake to find

out whether there were any inadequacies during his administration, and I will provide a detailed answer to the honourable member for Penrith. In no way should we trivialise paedophilia. It is the most revolting offence that can be perpetrated. Today I heard laughing and inane comments. We are talking about our children and our future.

Ms Allan: You are sick.

Mr GRIFFITHS: It is a sick affair.

Page 5386

Mr SPEAKER: Order! I call the honourable member for Blacktown to order for the second time. Order! I call the honourable member for Blacktown to order for the third time.

Mr GRIFFITHS: Until honourable members opposite accept that, we will not be able to protect our children.

Mr SPEAKER: Order! I call the honourable member for Heffron to order for the second time.

Mr GRIFFITHS: I make it very clear that the New South Wales Police Service, which has established a cell for paedophilia offenders, is dealing with the matter in the most sensitive and effective way. No matter what party is in government, no matter who is Minister, we will always feel inadequate when our children are abused in this way.

Later,

Mr GRIFFITHS: The honourable member for Penrith asked a question earlier today. I would like to respond further now by saying that so far as I am aware the allegation was fully investigated and specific recommendations for charges were clearly made. However, I understand that the Director of Public Prosecutions directed that there was insufficient evidence to proceed with those charges. All honourable members would be well aware of the difficulties presented in such cases, a situation that this Government has done more about than honourable members opposite have ever thought about doing.

DETENTION OF BOAT PEOPLE

Mr CRUICKSHANK: My question without notice is directed to the Minister for Multicultural and Ethnic Affairs.

Mr SPEAKER: Order! I call the honourable member for Smithfield to order. I call the honourable member for Penrith to order. I call the honourable member for Hurstville to order for the third time.

Mr CRUICKSHANK: Is the Minister aware of widespread concerns being expressed in the ethnic community about long-term detention of boat people seeking refugee status? What is the Minister's position? What has he done to allay these fears, and what is the position of the New South Wales Government?

Mr SPEAKER: Order! I call the honourable member for Illawarra to order.

Mr PHOTIOS: I heard an interjection from the honourable member for Smithfield, who purports to be seriously concerned about the Government's performance in this place. His principal concern should be with his leader's performance in this place. As I look at the latest poll figures and contemplate remarks by some members of the press gallery, it is interesting to see the comment that voter satisfaction with the Premier has jumped 13 points to 60 per cent, making him one of the most popular political leaders in Australia today.

Mr SPEAKER: Order! I call the honourable member for Davidson to order.

Mr PHOTIOS: The Opposition needs to get its house in order.

Mr SPEAKER: Order! I call the honourable member for Smithfield to order for the second time.

Mr PHOTIOS: The opinion polls show the New South Wales coalition Government has leapt to a decisive 13-point lead over the Labor Opposition.

Mr Newman: On a point of order.

Mr SPEAKER: Order! I call the honourable member for Eastwood to order for the second time.

Mr Newman: I direct your attention to the question, which specifically referred to Cambodian boat people. I ask that you direct the Minister to return to the question and to answer it in detail.

Mr SPEAKER: Order! It would be drawing a longbow to suggest that the Minister's answer is relevant to the question. I ask him to return to the question.

Mr PHOTIOS: The detention of boat people in centres in Sydney and Port Hedland for what is now almost four years is one of the blackest marks against the Australian Government's record on human rights. The Leader of the Opposition again attempts to interject, in an endeavour to draw more information about his performance. The interjection also defies logic, given your ruling, Mr Speaker. It is fair that I should give him another serve.

Mr Langton: On a point of order. The Minister for whatever he may be is obviously flouting your ruling.

Mr SPEAKER: Order! The honourable member for Kogarah will address the Minister by his correct title. He well knows what it is.

Mr Langton: The Minister for Multicultural and Ethnic Affairs is obviously flouting your ruling and is trying to invent spurious interjections as a means of getting before the House information that has nothing to do with the question that was asked.

Mr Photios: On the point of order. It is fair to say that the interjection by the honourable member for Smithfield may have related to another matter, but it is clear that the Leader of the Opposition was responding to my earlier comment and asking me to detail the fact that our Premier has doubled his lead over the Leader of the Opposition.

Mr SPEAKER: Order! I have often told the House that if there were no interjections, these types of points of order would not arise. Once interjections flow as freely as they were at the time the Minister responded, it is difficult for the Chair or anyone else to hear exactly what is said. A Minister may think or assume that he heard something to which he is able to respond in accordance with the precedents of this House. I ask all honourable members to co-operate by not interjecting further and to allow the Minister to answer the question.

Page 5387

Order! I call the Minister for Multicultural and Ethnic Affairs to order for the second time and ask him to desist from conversing with other members on the frontbench while I am giving a ruling. I request that he finish his answer to the question as quickly as he can.

Mr PHOTIOS: This month marks the fourth year since a group of 26 boat people arrived off the coast of

Broome aboard the *Pender Bay*. They and more than 600 boat people from Cambodia, Vietnam and China arrived aboard 13 boats over the next two years. As they arrived illegally, without visas, they were detained under section 88 of the Immigration Act while their applications for refugee status were being processed. A total of 224 of them returned home, 152 were granted entry to Australia, and the rest - about 250 people, most of whom are Cambodians and some of whom had arrived aboard the *Pender Bay* four years ago - remain in detention at Villawood in New South Wales.

I do not propose to take up the time of the House by detailing the litany of legal proceedings, reviews and appeals that have taken place over the years in relation to the initial decision of the Department of Immigration not to grant these people refugee status. Suffice it to say that the Federal Government has used these ordinary people, who have exercised their basic human right to challenge decisions of bureaucrats, as pawns in a game of international diplomacy and made them scapegoats for a policy that is clearly inhumane. That policy uses these people as an example of what will happen to others if they attempt to come to Australia in a similar manner. It is a policy of deterrence, inaction, and hypocrisy.

One constantly hears allegations from the Federal Government that the Cambodian and Vietnamese boat people are queue-jumpers, and indeed criminals, because they entered Australia illegally. These people are not queue-jumpers, and to describe them as criminals is quite absurd. There was no legal way they could have entered Australia at the time they did, given that there was no legation in Phnom Penh when they left. If they have broken any law, is their crime sufficient to warrant their incarceration in a detention centre that was never designed or intended to hold people for extended periods - even if that were in the least part justified.

The conditions in these camps are best described as appalling. Limited health services are available and there are virtually no women's health services, despite the fact that a number of these women were raped prior to arriving in Australia and have given birth to children in the centre subsequently - in fact 22 children have been born in the centre and remain there to this day. Limited educational opportunities are provided, and that is particularly significant for the children who arrived with their parents and for the 11 who, having been born since, have not received any educational training. In the camps these people have little activity and little stimulation, to the extent that children are growing up with dysfunctional motor skills. They have limited clothing. The only clothing that the Federal Government has provided is one issue of underwear, which was supplied last year. The rest of the clothing has had to come through the good will of the Catholic Church, without which one suspects these human beings would have been dressed in rags. They cannot prepare their own food; they have limited access to religious services; counselling for victims of torture and rape is virtually non-existent. The aspects of life that give us our dignity and give us a reason for living do not exist in these detention camps, especially the one in Sydney, in our own home State.

Mr Newman: Has the Minister been to see them?

Mr PHOTIOS: I have discussed this matter with a number of people, as the honourable member is aware. Murderers get better treatment than these people do. Rapists, armed robbers and child molesters are treated with more respect, as the honourable member for Cabramatta should know.

Mr SPEAKER: Order! I call the honourable member for Cabramatta to order for the third time.

Mr PHOTIOS: That is not good enough for this Government, even if it is good enough for the honourable member for Cabramatta, because there is an alternative to what is taking place, and that alternative must be explored. The alternative was outlined in Sydney recently, to a Senate inquiry seeking alternatives to the detention of boat people, by the New South Wales Government's Ethnic Affairs Chairman Mr Stepan Kerkyasharian. It involves arranging a partnership between the ethnic communities of the detainees living in Sydney in taking responsibility for them in their homes. These communities are as Australian as any other. Australia's interests are their interests, and they would pursue those interests if the Federal Government afforded them the respect and trust they have earned and deserve.

Last month the Minister for Immigration, Senator Bolkus, unveiled his master plan to erase this black mark

against our human rights record. What he has done is to put these people on notice. He told them that they can stay in Australia, but they must go back to Cambodia for 12 months - sent by aeroplane by the Australian Government - before we fly them back here again as residents. That is ludicrous. The Federal Government is asking these people to gamble with their lives, because if they do not agree to these conditions and are eventually deported, they will not become part of this special program. Again the Federal Government, at taxpayers' expense, is using these people as pawns in the game of international diplomacy.

There is nothing diplomatic about this latest endeavour, which reeks of the worst kind of bureaucratic double-talk. It is blackmail; it has confused and terrified the boat people; and it has stripped them of yet another layer of human dignity. It is another demonstration of the anti-migrant policies of the Labor Party in Australia today. It should

surprise no one that the offer has been declined by all. Last week the Federal Labor Government finally announced its intention to allow 29,000 Chinese students, who had been in Australia on extended visas since the Tiananmen Square massacre, to stay in Australia. This was a decision the Federal Labor Government had agonised over for years. The Federal Government, as it had done with the boat people in the camps, had left the Chinese students hanging on a limb, leaving them to sweat it out until virtually the last moment. How worrying and stressful must have been the time it took for the Labor Party to make the only realistic decision - and indeed the only humane decision - to allow them to stay.

As I said, no other decision could have been made regarding the Chinese. I hope, now that their future has been clarified, that these people can build on the contribution they have undoubtedly made to Australia already. The decision has brought to light the absolute contempt of the Labor Party for the treatment of the detained boat people. After almost four years it is no longer a question of law; it is a question of human rights and human dignity. It is about a caring approach as opposed to an inhumane approach to migrant issues. It is time to stop punishing these people for taking a desperate step to secure a better future for their children. They have suffered long enough. In short, it is time to let them go.

POLICE MISSING PERSONS SEARCH

Mr GRIFFITHS: On 11th November the honourable member for Riverstone asked me a question without notice regarding a search by Blacktown police. I undertook to give a response at the appropriate time. The honourable member's question related purely to an operational matter. I seek leave to table a press statement issued by Assistant Commissioner Russ Cook, Regional Commander, Northwest, which details the facts of that matter.

Leave granted.

———

PETITIONS

Phillip Parkway, Rooty Hill

Petition praying that stage 2 of the Phillip Parkway, Rooty Hill, linking 1 Eastern Road with the Great Western Highway, will receive high priority, received from **Mr Amery**.

Gosford Railway Station

Petition praying that the Government give priority to the construction of escalators and the provision of a non-slip surface, toilets and a parenting room at Gosford Railway Station, received from **Mr McBride**.

F6 Freeway Emergency Telephones

Petition praying that the House will consider the installation of emergency telephones on the F6 Freeway from Yallah to the north of Wollongong, received from **Mr Rumble**.

Brighton Memorial Playing Fields

Petition praying that Brighton Memorial Playing Fields not be sold or rezoned, received from **Mr Thompson**.

Serious Traffic Offence Penalties

Petition praying that laws relating to road accident fatality or injury be re-evaluated, received from **Mr Mills**.

Cawdor Residential Development

Petition praying that the House will not support rezonings and development at Cawdor that could lead to new residential development, received from **Dr Refshauge**.

Public Housing Tenant Water Charge Liability

Petition praying that the House reject the proposed amendment to the Residential Tenancies Act to charge public housing tenants for water consumption, received from **Mr Rumble**.

Picton-Tahmoor-Thirlmere Sewerage Scheme

Petition praying that an environmentally sensitive sewerage system for the Picton-Tahmoor-Thirlmere area and other population centres in the Wollondilly be commenced immediately, received from **Dr Refshauge**.

Shellharbour Public Hospital Children's Ward

Petition praying that the children's ward of Shellharbour Public Hospital be reopened, received from **Mr Rumble**.

Canterbury Hospital

Petition praying that Canterbury Hospital be retained and upgraded on its present site and that the services it provides continue during upgrading, received from **Dr Refshauge**.

Camden District Hospital

Petition praying that Camden District Hospital not be privatised and that children's services be reopened to make the hospital fully operational, received from **Dr Refshauge**.

Police Service Rotational Transfer Policy

Petitions praying that the House reject any policy by the New South Wales Police Service to introduce rotational transfer, received from **Mr Face, Mr Hunter and Mr Mills**.

Warilla Police Station

Petition praying that more police be allocated to Warilla Police Station, received from **Mr Rumble**.

Berkeley Police Station

Petition praying that Berkeley Police Station be manned on a 24-hour basis and foot patrols be introduced, received from **Mr Rumble**.

Page 5389

Caroline Bay Multi Arts Centre

Petition praying that the House order the establishment of a commission of inquiry under the environmental protection Act to consider the environmental and fiscal effects of the Multi Arts Centre proposed for Caroline Bay, East Gosford, order a half-term election for the ten aldermen of Gosford City Council on 18th September, 1993, and order the council to cease expenditure on the centre until the results of the election become known, received from **Mr McBride**.

PUBLIC FINANCE AND AUDIT (BUDGET) AMENDMENT BILL

Bill read a third time.

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Evidence

Mr KERR (Cronulla) [3.20]: I bring up and lay upon the table of the House the collation of evidence of the Commissioner of the Independent Commission Against Corruption, Mr Ian Temby, Q.C., on general aspects of the commission's operations taken on Friday, 15th October, 1993, at Parliament House, Sydney.

Ordered to be printed.

MATTERS FOR URGENT CONSIDERATION

Censure of Honourable Member for Auburn

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [3.22]: The reason I seek to have urgent consideration of this motion -

Mr Whelan: On a point of order. My points of order are several. First, the proposed motion provides that this House censure the honourable member for Auburn for his disregard for the plight of women and children who are victims of domestic violence. Standing Order 142 specifies the time limits for a member the subject of a censure motion and the mover. That standing order provides unlimited time. The sessional order relating to consideration of urgent matters provides that the mover and member first speaking thereafter will have only 10 minutes. The standing orders do not envisage a guarantee that a person who is the subject of a censure has any right or entitlement to respond. The censure of a member is an important matter.

Second, the Government knows that when the Opposition has proposed censure the motion has been moved by consent, as this motion would be at the ordinary time to comply with Standing Order 142A. That would give the member being censured unlimited time. Many Ministers have been censured and the Government and the Opposition have arranged that the debate would take place at the conclusion of question time and that the Ministers would be given unlimited time to respond. The Hon. P. E. J. Collins, the Hon. J. J. Schipp and others were given that opportunity. This procedure will not enable honourable members to give proper consideration to a censure motion before the House. Third, the Parliament has on its program the

Crimes (Domestic Violence) Bill. The appropriate time for the Minister to proceed with this matter would be when that bill is debated.

The Government and the mover have an opportunity to move censure at the appropriate time. On behalf of the Opposition I concur that the matter should be brought forward, and the Opposition will facilitate that. But to move the motion as a matter for urgent consideration is not appropriate because it would confine the speakers to the debate to two members each having 10 minutes, three other members having five minutes and the mover in reply only five minutes. It might lead to serious consequences if the House is asked to state that an honourable member's rights will be limited, if he or she gets the call, to a five-minute or 10-minute reply. It is totally inadequate, and I ask that the motion to be moved by the Minister be ruled out of order.

Mr West: On the point of order. The honourable member for Ashfield has conveniently managed to use up three minutes of the Minister's time. It is entirely up to the Minister in moving her motion to use a different mechanism by which speaking times are shortened. That is contained within the rules laid down by the honourable member for Ashfield and the way he has used them. Both sides of the House have always agreed that after the House agrees, censure should be proceeded with and not before.

Mr Whelan: Further to the point of order. Following upon what the Leader of the Government said, if the Minister had sought leave to suspend certain standing and sessional orders to permit a motion of censure proceeding, leave would have been granted. However, the Minister has used a completely different form of the House that would limit the time of all speakers to the debate. The procedure the Minister intends to use will gag a person who has been censured by the House. Such an approach is ridiculous. The Opposition does not support it. The Opposition permitted the Hon. Joe Schipp, the Hon. Peter Collins -

Mr SPEAKER: Order! The honourable member for Ashfield will resume his seat. He is now debating the matter.

Dr Refshauge: On the point of order. The important point in this matter is that the honourable member who is to be censured has no guarantee that he will get the call as either the first speaker after the mover or as any one of the other speakers so that he can put his point of view. The honourable member to be censured would have no chance to answer his critics. That would be unjust. I urge you, Mr Speaker, to rule the motion totally out of order.

Mr SPEAKER: Order! Honourable members will be aware that this matter is governed by sessional orders introduced by this House. If the House had wished consideration of urgent matters to exclude a

motion of censure or condemnation or any other form, it would have done so within the sessional order. The Minister for Energy and Minister for Local Government and Co-operatives has stated clearly that if urgency is granted the convention of this House will be followed and unlimited time will be given to the mover of the censure motion and the member who is the subject of it. That procedure has always been adopted on previous occasions when this particular form has been used. I see no reason why I should depart from the accepted forms and procedures of the House.

Letona Co-operative (Financial Assistance) Bill

Mr J. H. MURRAY (Drummoyne) [3.23]: The matter that I ask the House to consider urgent is the following motion:

> That so much of the Standing and Sessional Orders be suspended as would permit consideration forthwith of General Business Order of the Day (for Bills) No. 24 for the completion of all remaining stages with precedence of all other business at this sitting.

The Opposition believes priority should be given to debating the Letona Co-operative (Financial Assistance) Bill. This matter has been before the House for a considerable period. The Opposition is attempting to save the Letona cannery, the jobs of the people in Leeton, and assist an export industry in need of assistance.

Honourable members will be aware that last Thursday the Government sought to circumvent a vote proceeding. At one stage the Opposition was certain that a vote would ensue, but the honourable member for Barwon entered the House and, being an old hand, deliberately circumvented the will of the House by speaking until one o'clock.

This bill has passed all stages in the upper House and I have given my second reading speech in this House. The growers and workers of Leeton and Batlow are in limbo at the moment. They do not know whether they will be able to sell their product and retain their jobs and the infrastructure. If this bill is not passed this week it will have a domino effect on a vital area of New South Wales. A decision is needed now. A multimillion dollar export market is at risk. The receiver is hanging on by his fingertips, waiting for a decision from this Parliament. He has said on numerous occasions that if this bill is passed he is certain he will be able to save Letona. At the moment the Government is engaging in subversive action, trying to prevent a decision in the lower House. The people of the Riverina deserve a decision from this Parliament today. The Letona cannery has a major export component. I have a fax from United Nordic in Sweden. It states:

> The United Nordic members are extremely concerned with your current position. Our members have supported Australian fruit canners for many years now. Our contracted volumes with Letona since 1991 . . . represent some AUD$12 million.

I have similar faxes from the Australian Canning Fruitgrowers Association, Leeton Council, Griffith Council and the Labor Council. Everyone in the Leeton area is hanging on in the hope that this bill will come forward, so that at least they will know what the position is. I believe it is incumbent on the House to agree to urgency, to allow the bill to go through today.

Question - That the notice for urgent consideration of the honourable member for Lane Cove be proceeded with - put.

The House divided.

Ayes, 43

Mr Armstrong	Mr O'Doherty
Mr Beck	Mr D. L. Page
Mr Blackmore	Mr Peacocke
Mr Causley	Mr Petch
Mr Chappell	Mr Phillips
Mrs Chikarovski	Mr Photios
Mr Cochran	Mr Richardson
Mrs Cohen	Mr Rixon
Mr Collins	Mr Schultz
Mr Cruickshank	Mr Small
Mr Downy	Mr Smiles
Mr Fraser	Mr Smith
Mr Glachan	Mr Souris
Mr Hartcher	Mr Tink
Mr Humpherson	Mr Turner
Dr Kernohan	Mr West
Mr Kinross	Mr Windsor
Mr Longley	Mr Yabsley
Ms Machin	Mr Zammit
Mr Merton	*Tellers*,
Mr Morris	Mr Jeffery
Mr W. T. J. Murray	Mr Kerr

Noes, 46

Ms Allan	Mr McManus
Mr Amery	Mr Markham
Mr Anderson	Mr Martin
Mr A. S. Aquilina	Mr Mills
Mr J. J. Aquilina	Ms Moore
Mr Bowman	Mr Moss
Mr Carr	Mr J. H. Murray
Mr Clough	Mr Nagle
Mr Crittenden	Mr Neilly
Mr Doyle	Mr Newman
Mr Face	Mr E. T. Page
Mr Gaudry	Mr Price
Mr Gibson	Dr Refshauge
Mrs Grusovin	Mr Rogan
Mr Hatton	Mr Rumble
Mr Hunter	Mr Scully
Mr Iemma	Mr Sullivan
Mr Irwin	Mr Thompson
Mr Knight	Mr Whelan
Mr Knowles	Mr Yeadon
Mr Langton	
Mrs Lo Po'	*Tellers*,
Mr McBride	Mr Beckroge
Dr Macdonald	Mr Davoren

Pairs

Mr Baird	Mr Harrison
Mr Fahey	Ms Nori
Mr Griffiths	Mr Shedden
Mr Hazzard	Mr Ziolkowski

Question so resolved in the negative.

Question - That the notice for urgent consideration of the honourable member for Drummoyne be proceeded with - put.

The House divided.

Ayes, 46

Ms Allan	Mr McManus
Mr Amery	Mr Markham
Mr Anderson	Mr Martin
Mr A. S. Aquilina	Mr Mills
Mr J. J. Aquilina	Ms Moore
Mr Bowman	Mr Moss
Mr Carr	Mr J. H. Murray
Mr Clough	Mr Nagle
Mr Crittenden	Mr Neilly
Mr Doyle	Mr Newman

Mr Face	Mr E. T. Page
Mr Gaudry	Mr Price
Mr Gibson	Dr Refshauge
Mrs Grusovin	Mr Rogan
Mr Hatton	Mr Rumble
Mr Hunter	Mr Scully
Mr Iemma	Mr Sullivan
Mr Irwin	Mr Thompson
Mr Knight	Mr Whelan
Mr Knowles	Mr Yeadon
Mr Langton	
Mrs Lo Po'	*Tellers,*
Mr McBride	Mr Beckroge
Dr Macdonald	Mr Davoren

Noes, 43

Mr Armstrong	Mr O'Doherty
Mr Beck	Mr D. L. Page
Mr Blackmore	Mr Peacocke
Mr Causley	Mr Petch
Mr Chappell	Mr Phillips
Mrs Chikarovski	Mr Photios
Mr Cochran	Mr Richardson
Mrs Cohen	Mr Rixon
Mr Collins	Mr Schultz
Mr Cruickshank	Mr Small
Mr Downy	Mr Smiles
Mr Fraser	Mr Smith
Mr Glachan	Mr Souris
Mr Hartcher	Mr Tink
Mr Humpherson	Mr Turner
Dr Kernohan	Mr West
Mr Kinross	Mr Windsor
Mr Longley	Mr Yabsley
Ms Machin	Mr Zammit
Mr Merton	*Tellers*,
Mr Morris	Mr Jeffery
Mr W. T. J. Murray	Mr Kerr

Pairs

Mr Harrison	Mr Baird
Ms Nori	Mr Fahey
Mr Shedden	Mr Griffiths
Mr Ziolkowski	Mr Hazzard

Question so resolved in the affirmative.

Suspension of certain standing and sessional orders agreed to.

LETONA CO-OPERATIVE (FINANCIAL ASSISTANCE) BILL

Second Reading

Debate resumed from 11th November.

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [3.47]: Last week the House took some time to debate a bill that for all intents and purposes was exactly the same as this bill which has come from the other place. A couple of words may be different here and there, but so far as I am concerned they are exactly the same bill. The honourable member for Drummoyne while telling honourable members why this bill should be considered in this House yet again repeated some of the misconceptions and blatant untruths that have been peddled about this issue.

Last week in some detail I made clear the Government's position on Letona. Anyone who peruses *Hansard* will see the details. Let me make a few things perfectly clear. In my opinion and on the advice I have received the information that is being put to this House is not true. I am amazed that members opposite and the Independents are prepared to support such a bill. The honourable member for South Coast tells us he is a responsible member of Parliament; in fact, he goes forth to the world to say that he is probably the only one in this place who has any responsibility. I am absolutely amazed that he can deliberate on a bill such as this, which means absolutely nothing. The bill says, "recommend", "recommend", "recommend". It holds out false hope to people in desperate trouble. I was told during the weekend that the honourable member for Drummoyne was running around everywhere saying to people, "Next week this will be law". I suppose it is like Paul Keating's statement. Is it spelt the same way - l-a-w? It cannot be law. The Opposition cannot introduce a money bill. It knows that because that is stated in the bill. The Opposition is wasting the time of this House by debating this issue. As I have already said, the Opposition is holding out a false hope to the people in Letona, who are in a desperate situation.

I will not go through the reasons for the failure of Letona as we have been through them a dozen times already. The honourable member for Drummoyne said that the receiver had informed him that this bill, if passed, would save Letona. That is a blatant untruth. The receiver has not said that. In fact, to my knowledge, the receiver has interviewed 52 or 53 interested parties in Letona. Private enterprise put out feelers and asked me, "If we take over Letona will the Government give us $15

million?" The Government will not give $15 million of taxpayers' money. That is nothing like the amount of $5 million that is talked about in this bill. It is unfortunate for Opposition members and the Independents that they have been briefed by people who have given them misleading information. Even with the $7.5 million put up by this Government and an additional $5 million of taxpayers' money, we will still have to go through the equity process. That will not get us anywhere.

I said last week in the debate that no one seems to be worrying about the fact that the Government has no say in this matter. The State Bank, and not the Government, has the receiver in at present. If this bill is passed and members of the Opposition get it into people's heads that there is a chance of receiving $5 million of taxpayers' money, we will still have to go through the equity process. What will the State Bank do? Will it hang by its teeth and say that something might be forthcoming from the taxpayers? Letona cannery is losing more and more money every day. The information that is coming through is misleading, to say the least. The honourable member for Port Stephens is shaking his head in disagreement. That is predictable because, as I have said, his statements cannot be believed anywhere in New South Wales.

We have heard rumours that there is $30 million worth of stock at Letona. The receiver said at the start of the proceedings that there was $20 million worth of stock. So where does the figure of $30 million come from? Very little would be obtained for the land and equipment because the cannery itself is 1948-49 vintage. I do not think anyone in the world would want that. I am told that some refrigeration plant is in pretty good condition, but who would want that? The land in Leeton is not valuable. So I do not know where Opposition members have got the figure of $30 million. The cannery has debts of $34.6 million. It owes the State Bank $26 million. If $5 million of taxpayers' money was provided it would pay only the debts. Growers are owed $2.4 million and other debtors are owed $2 million, a total of $4.4 million, so little would be left over after the

debts had been paid.

Everyone agrees that the only possible chance of Letona trading out of this position lies in modernising its factory. It must also implement the world's best industrial relations practice. All these things have to be considered if it is to succeed. Over the years millions of dollars have been thrown at Letona cannery. In 1983 the Federal Government threw $4 million at it. Everyone has been supporting it. The honourable member for Drummoyne said that the Government will be forgoing payroll tax. In 1983 the Government waived $1 million in payroll tax in an attempt to get the Letona cannery out of trouble. The directors of that cannery did not put in place the necessary procedures to make it an efficient operation - an operation able to compete in the current market-place. In 1990, when SPC Limited hit the wall, it made its operation more efficient. It received some help through Federal Government export programs but it did not receive any government funds. It restructured and is now a very competitive operation. Letona did nothing.

Are we to keep on throwing money at Letona cannery? What operation will we next throw money at? Will it be the hotel down at the Rocks? We might have to throw some money at that. It could go on and on. Of course this Government is concerned about employment. If Opposition members are concerned about employment I will deal with that matter yet again. The only area that is at risk is the peaches and pears operation. The receiver has said that Batlow is not at risk. The tomato line is not at risk because Heinz is looking for contracts there. Growers were encouraged by the board to plant more peach trees. Some of their trees are now two to four years old and their life expectancy is 20 years. These people have been left high and dry because of promises that can never be realised.

I and the honourable member for Murrumbidgee have said all along to the growers, "We will do what we can to help you". We realise that if we do not have this year's crop and future crops there is no chance of someone coming in and taking over the cannery at Leeton. The Government's package is far better than what is being offered by the Opposition. The Opposition said that it will provide $3.5 million through a rural assistance scheme, which will go towards paying out loans. This Government is offering a great package. We often hear from Opposition members about what the Federal Government is going to do. Last week I referred to what Senator Sherry said about Letona, so we do not have to go through that again. I approached the Federal Government for assistance for growers because of extenuating circumstances. The answer I received was that it could not help. After I managed to convince the Premier that there should be a package for growers because of extraordinary circumstances I again wrote to the Minister for Primary Industries and Energy in Canberra, the Hon. Simon Crean, and said, "We have come up with the money. You match it". I do not think honourable members should hold their breaths while waiting for the answer. I think they know what it will be.

The Labor Party is perpetrating a cruel hoax. I am astonished that the Independents are even thinking of supporting this legislation. As I have said, the receiver is acting on instructions from the State Bank. Redundancy notices are being given today. So this bill cannot save Letona. The cannery, as we know it, has got itself into extraordinary difficulties and it cannot be saved. It would be a nonsense for us to even go ahead with this bill and to take up the time of this House with something that cannot be implemented. I notice that the Labor Party always get the honourable member for Drummoyne to lead in these sorts of circumstances. This bill is a nonsense. Half-truths will be peddled; there will be innuendo; and all sorts of assurances will be given that this or that might happen. It will not happen. We must be honest with these people. We must not hold out a sense of hope when there is none.

The Government has been sympathetic towards Letona on this issue. It has looked closely at the package that was put together with the help of the

Department of Regional Development and the Department of Agriculture. Everyone involved has tried hard to put together a package that might save Letona. But when we look closely at the figures the only answer we can come up with is that it has no chance because of its debts. It is too late for the unions to say that they are now prepared to accept these sorts of measures. In 1990, when the receiver-manager was put in by the Federal Government, a plan was drawn up by the new manager of Letona - he may still be the manager - concerning the rescue package.

There is no doubt that there had to be redundancies in the factory. About 50 per cent of employees had to be retrenched if the business was to be competitive. What happened? The board did nothing about it. The board did not implement the measures. In 1990, when there was a profit of $400,000, members of the board voted to put it in their pockets. Now they think they can come back to the taxpayers of New South Wales for the umpteenth time and ask for a handout. It is not on. This cannery has been given every chance over 20 years to perform, and it has not performed. This bill is a cruel hoax, because nothing will happen. It is a farce that the matter should be debated in the House again today.

Mr MARTIN (Port Stephens) [4.0]: This is a very sad moment for the New South Wales Parliament. The coalition was elected to govern, to care for people, and to listen to representatives speak in this Parliament on behalf of constituencies, but that once great National Party, which represented country people, is now falling apart. Like the Boston strangler, the coalition is strangling people out of existence. The modern National Party can only hang its head in shame when the Government is not doing the right thing by rural industries. In the five years that the Liberal-National coalition has been in government it has presided over the demise of rural industries left, right and centre. Compare that with what occurred with the sugar industry.

The Minister for Agriculture and Fisheries has been Minister for quite some time. He cannot plead ignorance and he cannot say he has just arrived on the scene. He cannot say he was not briefed by his department or that he did not know things were bad at Letona. The Government has sat on its hands; it has strangled the industry out of existence. A bill has been introduced by the honourable member for Drummoyne, the shadow minister for employment. This package aims at keeping the Letona cannery going, keeping people in jobs, and keeping an industry going. Apart from workers in the cannery is the issue of an industry in the Murrumbidgee Irrigation Area that supports producers of tomatoes and all the vegetable crops that have traditionally been canned at Letona, and long-term crops in deciduous fruits such as pears, peaches and apricots. Many of the trees are quite old. The decision had to be made at the beginning of this season as to whether the trees should be pruned, watered and sprayed. The Government gave no indication whatsoever.

What good is a government that does not govern? What good is there in people driving around in white limousines? That is all the Government does today. Considering the Eastern Creek and HomeFund fiascos, the Government should be ashamed of itself for not helping a battler in the bush. The bill contains a plan to restructure the Letona cannery. A small amount of money is needed to ensure that the industry is kept going. Members opposite may chant, rant and carry on, but country people are being done over. This bill is about restructuring and keeping people in jobs in country areas. At the end of the day people will be thrust on the human scrap-heap.

The honourable member for Murrumbidgee looks very forlorn and dopey. He must think seriously about what Government opposition to this bill means. If the Government has its way, the cannery will be gone tomorrow; the New South Wales fruit canning industry will disappear. But the Government pays no regard to that; it has no desire to ensure that the cannery continues to operate. Government members are content with parading around as economic rationalists; that is the sad indictment of the Government. This is a responsible bill; it has been passed by the upper House and will be passed by the lower House today. With its passing, hundreds of producers will be able to salvage what they can from their current crops. They will know whether to plant crops, even though they are now late, and whether they will be able to process them in the expectation of a reasonable price. If the Minister and his colleagues do not agree, they will stand condemned in the eyes of the people of New South Wales and all the people in the Murrumbidgee Irrigation Area.

Mr CRUICKSHANK (Murrumbidgee) [4.6]: I would like to tell the House about some of my endeavours to encourage local growers to become involved in saving the industry - not with this charade, this nonsense that is contained in the bills. The Opposition has spread its poison very well, because people in the local industry think that when the bill is passed it will save them. I have tried to tell them that no one from outside will save them unless they invest money themselves. I have told them that when there is a 51 per cent ownership by anyone the Government will applaud them. The Government will not invest money in the hope that somehow that might do some good.

I have told growers that despite my well-known attitudes towards co-operatives - they are not very good, and Letona cannery does not do anything to change them - I acknowledge that there are some successful, wealthy and well run co-operatives in the food industry, in the value adding industry. I have spoken to representatives of co-operative organisations who have said money is available for those who wish to start a new co-operative and that money is available for working out business plans. I have advised them strongly to pursue those matters. I understand money is available at a Federal level to assist co-operatives. I have told the cannery that some upfront person must be appointed to the board of the new co-operative,
Page 5394
whatever it may be called. A co-operative occupies the same status as any of the other 53 applicants. It could take over the name or rent the premises. So far the receiver has been offered absolutely nothing. If a new co-operative has the will, it could get the name. If it can get people on the board - and there is no problem about getting successful people -

Mr Cochran: Good management.

Mr CRUICKSHANK: Yes, people who are successful and have been good managers; get them into the new co-operative and have them make an application to the receiver for the same things that the other 53 applicants have sought. The big difference this time would be that a new co-operative would not walk away from the cannery. A new co-operative with a brand new name, with good management - not those who were on the co-operative before - would not walk away from any offer similar to that made by the receiver to the other 53 applicants. I have told those involved to get moving and do something along those lines. Money is available.

Mr Martin: When did you tell them?

Mr CRUICKSHANK: I told them last week. They came down to speak to the Minister last week. The honourable member has not been told about that. His spies are slipping badly. He is not into that sort of thing; he is simply into mischief-making. That is his speed. I have observed that characteristic on several issues, and I am sure it will become apparent again. He will get cut down to size, let me tell him. The more mischief he wants to make, the sooner that will happen. This has not been even good politics. The honourable member for Port Stephens will get hacked off at the ankles, and he should remember that. I have told the House what I should like to happen. No one from the private sector is coming forward to take over the Letona cannery. As much as one might wish it to happen, no one from the private sector is interested. I have advised the growers to get themselves together, form a new co-operative and make submissions to the receiver for taking over the name and renting out the cannery. They can do it if they have the will.

Mr SCHIPP (Wagga Wagga) [4.11]: This is more or less a repeat of the debate that occurred last week on the motion moved by the Opposition. At that time I made the point that the politics of the issue are sickening. The House is witnessing a repeat of that sickening debate. In the debate last week I said that there should be a nexus between any money that comes from the State and any money that comes from the Commonwealth. There was agreement, in principle, at the Committee stage, though no vote occurred. The Opposition supported my viewpoint. A proposition was put to me privately by the Opposition that Bill Kelty of the Australian Council of Trade Unions had given an assurance and he believed that a pocket of money was available. I took that at its face value and believed that the Opposition was of a similar view. Senator Nick Sherry visited Leeton only yesterday and spoke to the people down there. According to an article in the *Daily Advertiser*, Senator Sherry was emphatic:

> Sen. Sherry said from Griffith yesterday the Federal Government was keeping a "keen eye" on Letona and the two private member's Bills.
>
> However, he would not give any commitment the Government would consider reversing its previous statements and step in to help Letona. "I don't want to give any false hope," he said.

If there were any sign that the Federal Government was weakening in its resolve not to support Letona, that was the time for Senator Sherry at least to have given some hope by opening the door slightly and saying that if the New South Wales Government allowed the two bills to be passed and came to the party with the $5 million, the Commonwealth had a pocket of money available that would not have to be approved by Cabinet; it was within the discretion of the Minister for agriculture, Mr Crean, to fix it up. I have come around to believing that a deadline was necessary for determining whether funds would be available. I was told by the receiver that within 48 hours he would have to make critical decisions. Those decisions have been made and the retrenchment notices have already been sent out. That was made public yesterday. Those notices take effect in a week.

The time frame for this issue is critical and very much to the fore. In the several days since the debate occurred in the House last week we have heard nothing from Opposition members except that the Federal Government has denied what was said about money being available from Federal sources. Everyone knows about that, including the mayor of Leeton and the honourable member for Drummoyne. I do not know whether the honourable member for Port Stephens knows much about the issue at all. Those members who do know something of the matter realise that the $5 million will do nothing on a stand-alone basis. It is not worth throwing that amount of money around to attempt to solve the problem; it is bigger than that. The receiver said that band-aid measures will not save Letona. A sensible contribution was made to the debate by the Mayor of Narrandera, Councillor Des Edwards. An article in a local newspaper was in the following terms:

> Narrandera Mayor, Cr Des Edwards has urged the Letona receiver, James Millar to lift the "veil of secrecy" on the company's future.
>
> Cr Edwards has been a staunch supporter of the community rescue efforts. He was the only civic leader from an adjoining shire to travel to Sydney to stand alongside Leeton Mayor, Cr Peter Woods at the Parliament House rally in September which bought more time for the troubled co-op.
>
> Narrandera residents are among the permanent workers on the Letona payroll, while the company also provides seasonal work for a number of people in the shire.
>
> Cr Edwards said yesterday the uncertainty, with the involved parties giving conflicting information, was dividing the community.
>
> "It is time the receiver gave some clear direction and answered questions, such as, why the manager is still there?" Cr Edwards said.
>
> His reference was to managing director, Ian Geddes, the only director who held his position after Letona was placed in receivership with a $43 million debt on August 27.
>
> "We've got parties saying there are two potential buyers who will not move -

These are important words and I hope that the honourable member for Drummoyne is listening:

> - while ever there is Government involvement, and we've got the receiver and others saying they can sell Letona if the Government puts in money," Cr Edwards said.
>
> "The Government has said it will not prop up Letona, and I don't see that a band-aid treatment will stop the inevitable, if it is only going to keep it going to close in a year, anyway. The receiver is the expert. He should be stating the facts. He should be saying $10 million (of Government money) will keep it operating, or, if $10 million is not the answer, then closing it, so we can start afresh. The situation is dividing the community. It has become far too political".

That is a point I have made:

"I don't always agree with (Member for Murrumbidgee) Adrian Cruickshank, and he's made some mistakes in the past, but in this case I think he has come under unfair criticism.

Mr Martin: Are you quoting someone or is that what you say?

Mr SCHIPP: I am quoting what was said by Councillor Edwards, the Mayor of Narrandera:

"I don't always agree with (Member for Murrumbidgee) Adrian Cruickshank, and he's made some mistakes in the past, but in this case I think he has come under unfair criticism."

"Everybody is taking their venom out on Adrian. It is totally wrong. He has had nothing to do with the problem and is just moving with the Government on Letona," he said.

The mayor was saying that the issue has become so politicised that even people close to the action who have been briefed by the neighbouring council have counselled Peter Woods, who has been upfront. I accept his explanation of where he is coming from on the matter. He said that as mayor of the town he has a duty to try to save the cannery. Even he told me that more than $5 million would have to be made available. But that is all that could be made available under the provisions of this bill, which will not force the Government to make a red cent available. It will have even less effect on the Federal Government. If it had been fair dinkum, the Opposition would have foreshadowed an amendment to the bill to allow for the agreement that was reached last week, that is, to provide a nexus between State money and Federal money. As the Minister said, the bill simply makes recommendations.

I repeat that I believe the Minister is sincere in his attempts to do what he believes to be right. The time delay has helped, to an extent, to sort out what should happen regarding the Batlow cannery of Letona. An assurance was given today about other aspects, such as the juicing operations and the tomato line at Leeton, which continue to operate. That will save the jobs involved in those aspects of Letona's canning operations. Based on my discussions with the receiver, it is well past the time for making financial arrangements to enable the co-operative to continue functioning on a firm business footing. This is a political exercise that the Opposition has played out to the nth degree and it is confusing people such as Councillor Edwards and the Leeton community. Though the Opposition might have held the high ground a week or so ago, people have seen through that and believe, as I do, that the Opposition has overplayed its hand and has not been genuine in arriving at a package of financial measures.

Last week I was prepared to go three parts of the way with the Opposition but over the weekend Senator Nick Sherry visited that area and released a press clipping; unfortunately, one would read from the press clipping that money will not be provided by the Federal Government. Honourable members would come to the realisation that that is the end of the story, because even after last week's debate the Federal Government has still not said the money will be forthcoming. I am not saying that the honourable member for Drummoyne was not genuine and sincere when he said to me last week that he had had favourable discussions with Bill Kelty. However, by way of interjection from a Government member it was stated that Bill Kelty is not the Federal Government, whereupon other honourable members said, "Or is he?". There has been no indication that money is available. Unfortunately, Letona will not be saved by the exercise that has been perpetrated here today.

Mr COCHRAN (Monaro) [4.20]: I support the Government's role in this matter, in particular, the role played by the honourable member for Murrumbidgee, who is a responsible local member. I oppose the bill on the basis that responsible leadership has been given to the community and there has been competent representation by the local member. The honourable member for Murrumbidgee has recognised the problem and undertaken a role which, in the long term, will be in the best interests of the people of Leeton and the surrounding district. Other speakers in the debate have also acknowledged this. The Minister has been under great pressure. However, he has recognised that there is a long-term future for the fruitgrowers of Leeton and the surrounding area. This has been a face-saving exercise by the honourable member for Port Stephens, who, over the past 12 months, has introduced the South East Forests Protection Bill mark I and failed.

The honourable member for Bligh introduced the mark II bill and failed. Because of the irresponsibility of the honourable member for Port Stephens the conversion of Crown land to freehold and other more palatable tenures has been frozen. The honourable member for Port Stephens feels threatened in his position on the frontbench - and this has been demonstrated month after month - because the honourable member for Moorebank is sitting on the backbench poised to leap into his seat. The Government and the Opposition are aware that the honourable member for Port Stephens is trying desperately to retain his seat on the frontbench. On numerous occasions he has made a fool of himself and other Opposition members and is desperately trying to save his own neck.

Page 5396

I have visited the Batlow area and have spoken to residents of the area. They recognise that the honourable member for Murrumbidgee and the honourable member for Burrinjuck have one important concern, that is, the long-term viability of the fruit industry in the area. That is vital. Honourable members opposite should search their consciences and realise that when we talk about long-term viability we must have regard to the competitiveness, good management, sound business principles and professional marketing of the Letona operation. That is the answer to success. However, members on the Opposition benches, in particular, the honourable member for Port Stephens, are seeking some cheap, short-term political gain. He has left the Chamber because he is not able to face the medicine being dealt out to him.

The honourable member for Murrumbidgee and the honourable member for Burrinjuck, who represent the communities that are affected, have identified a further problem surrounding this issue. Some questions need to be answered. I shall not put them on the blue paper but will have them recorded in *Hansard*. Government members have already put something on the record that has embarrassed the honourable member for Port Stephens, but I wish to ask a further couple of questions. I am advised that this bill was drawn up by a Mr McGuire, who is a left-wing legal adviser to the Leeton Council. I would like to know what part this individual plays in the Australian Labor Party and if a political conspiracy is involved. Also, I would like to know the part played by the honourable member for Port Stephens in any conspiracy.

Honourable members opposite have the gall to play this cheap trick on the people of Leeton. I would like to know what role the Leader of the Opposition has played. If there is a political conspiracy - some cheap con trick - it should be exposed to the public so that they know exactly what honourable members opposite are up to. The Opposition's cheap con tricks will not work because people are a wake up to them. The honourable member for Burrinjuck and the honourable member for Murrumbidgee will be re-elected with increased majorities because honourable members opposite have made complete fools of themselves. The honourable member for Port Stephens thinks he is the greatest guru of all, but he makes more mistakes than anyone else on the Opposition's frontbench. He will go on the record for ever and a day as the person who cheated the people of Letona.

Mr SCHULTZ (Burrinjuck) [4.25]: Last week when I spoke on this legislation I described the Australian Labor Party as a group of people perpetrating a cruel hoax on the people of Letona and, more important, on the people of Batlow. There is no doubt in anyone's mind, including the receiver's, that in the history of industry in New South Wales the Leeton side of the Letona operation is one of the best examples of a poorly managed processing plant. Also, it is abundantly clear that the people sitting in the wings seeking to buy a viable operation are not looking at the whole Letona operation; they are looking at the good news part of the Letona operation, which is the Batlow operation.

The receiver has taken a sensible approach to this issue. He has acknowledged the value of the Batlow side of the operation and has allowed that plant to continue to operate until it runs out of corn in March or April of next year. I am sure he will consider the offer from Japan with regard to further product that will keep the plant viable. This bill and the bill introduced in the upper House have gone off in the same direction. This bill is having two bob each way. On the one hand, it states that the Government should provide $5 million of New South Wales taxpayers' money in addition to any financial assistance to be provided by the Commonwealth. Last Monday, in a speech to the Canning Fruitgrowers Association in Shepparton, it was stated that there is no

way in the world the Federal Government will waste any more money on the Letona operation.

Yesterday that statement was reiterated, in another statement, by Senator Sherry. He has virtually said to the people of Letona, "I understand what my parliamentary colleagues in the Labor Party in New South Wales are saying to you, but they are feeding you a heap of lies. They are raising your expectations unnecessarily". Honourable members opposite should be ashamed to perpetrate such a cruel hoax. They state in the public arena that the Australian Labor Party represents working-class people. It failed the working-class people in 1988 and has failed them ever since. It will fail them in the future because not one Opposition member is able to say that he or she understands the problems associated with the recession and how they are affecting working people in this country today. Opposition members make me wonder what they are up to when they play cheap political games with the lives of people.

Mr Martin: You were a meat worker.

Mr SCHULTZ: I know what I was. I have worked with my hands a lot longer than 90 per cent of members on the Opposition side have. Because I come from that background I can tell the House more about the working-class background than half the Opposition members can. I know exactly how the Opposition operates, what it is prepared to do and to what depths it will sink to gain cheap political mileage at the expense of people. The Opposition can get all its stooges in Tumut and Batlow yapping their heads off trying to discredit the Government and me but, as the honourable member for Monaro said, the reality is that I will be judged on my performance in 1995 at the election. The Opposition can forget about the seat of Burrinjuck because it will remain in the coalition's hands for many years.

The workers and management of the Batlow side of the Letona operation know their capabilities; they know that they have something positive to sell to a potential buyer. The longer the Opposition persists in putting out negatives on this issue, the longer it will be before a private buyer will purchase the plant. No government - whether Federal Labor, Federal Liberal
Page 5397
or Federal coalition - would act irresponsibly by throwing more good money after bad money into that operation. As the honourable member for Monaro said, the bottom line is that there is something a little more sinister in this game that the Opposition is playing.

When we dig out the dirt behind this, it will be thrown all over the Opposition. Its members may tell lies in this House but the bottom line is that the people of New South Wales have more intelligence than the Opposition gives them credit for; and it did not give them credit for that intelligence in the lead-up to the 1988 election. The people of New South Wales realise the Government has a job to do. I assure the House that when the crunch comes someone will buy the Batlow part of the Letona operation, but I will be very surprised if anyone buys the Letona operation as it stands.

Growers who supply to the Letona cannery are owed a significant amount of money, in the vicinity of $2.4 million, and Batlow growers are owed about $805,000. The growers know that this Government has their interests at heart because the National Party has always looked after those people involved with agriculture and horticulture in New South Wales. People know that when the crunch comes the Government will make sure that the interests of growers and their families are looked after so that they can continue in the agricultural and horticultural industries as they have done for many centuries. Opposition members should not perpetrate its rubbish in this House and that of an Independent member of the upper House who is also playing cheap politics, and therefore is putting himself in the same category as the Opposition. I relish the opportunity to place on the public record the cheap political tactics that Opposition members are prepared to use to attempt to justify what they see as a political opportunity in rural New South Wales.

Mr AMERY (Mount Druitt) [4.34]: I am pleased to support the Letona Co-operative (Financial Assistance) Bill. It is disappointing that I did not get that opportunity last Thursday. At that time the Opposition was placed in the situation of not having many speakers to the bill because the Government's campaign was to draw out the bill. The honourable member for Barwon, the former Deputy Premier, used his

experience of the House to talk out private members' day. As a result, this bill went back to the business paper - to the never-never. It is to the credit of Reverend the Hon. F. J. Nile that he has also been championing this cause through the Legislative Council.

I am pleased that Opposition members are supporting the bill. I am further pleased that the honourable member for Dubbo, the former Minister for Cooperatives, is in the Chamber because this Letona matter brings into question the Government's commitment to the system pertaining to co-operative societies. The honourable member for Dubbo when a Minister strongly supported co-operative societies, but was never supported by his Government or his Cabinet. We are now debating the collapse of Letona Co-operative Limited. Only a few months ago a Singleton co-operative collapsed and, as a result, the Australian Association of Co-operatives, a financial co-operative, collapsed because it could not fund the Singleton co-operative.

The honourable member for Dubbo may rebuke me, but it is my belief that he was fighting Treasury to try to get some form of rescue package for the AAC so that co-operatives throughout New South Wales could be saved. Unfortunately, the Premier failed to act, Treasury failed to act, and it was only loans granted by credit unions and other institutions that saved many New South Wales co-operatives from going under. If the honourable member for Dubbo had received full support from day one, the AAC would not have collapsed. It is a pity he is not now the Minister for Local Government and Co-operatives because I am sure that within the Cabinet he would be fighting for a much stronger position on Letona Co-operative than this present weak-kneed mob.

The honourable member for Burrinjuck, the honourable member for Murrumbidgee, and the honourable member for Monaro have not mentioned anything about the package of the bill. All they have done is attack the Opposition - the honourable member for Port Stephens, the honourable member for Drummoyne and others. I have attended the Murrumbidgee Irrigation Area on many occasions. I have visited the area to discuss many issues and - whether it has been the transfer of land tenure in the MIA, concerns about the permanent transfer of water rights, the present concerns of local governments, the transfer of assets from the Department of Water Resources to the local government - the one common point is that the honourable member for Murrumbidgee has never once supported any cause in his electorate. Letona is no exception. For every issue that has been dealt with in the MIA, we can rely on the honourable member for Murrumbidgee bagging his constituents and the institutions in his electorate. Today we have another example of that.

Mr Causley: That is rubbish.

Mr AMERY: It is a fact. For every issue that I have visited the MIA on and on every debate in this House the same thing has happened time and again. One of the few speakers from the Government who did address the bill was the Minister, who, I must say, being caught by the vote this afternoon, proceeded to speak well to the bill and make some references to the Government's arguments against the Opposition proposal. However, some of his points must be challenged. For example, he said that Letona had been bailed out time and again; it had been given money and is still in the same position. There is an element of truth in what the Minister says. State government money has been provided to Letona Co-operative Limited but it still has not improved its position. Either side of the House does not question that fact.

The objects of the bill refer to the Government not just handing over money to Letona but it also recommends a financial assistance package from the New South Wales Government with assistance from

the Federal Government; and the management of Letona would be required to undertake certain actions to ensure it trades its way out of difficulty by restructuring of the co-operative. This is not a bill that simply says: hand over the dough. It is instructive to read the objects of the bill as set out in the explanatory note. Object (b) is to recommend the provision of Government financial assistance to Letona and the growers who supply it. Object (c) is to facilitate the appointment of an administrator for the co-operative under the Co-operatives Act 1992.

I must make a comment about that Act. The honourable member for Dubbo, as the then Minister

responsible, introduced a wide-ranging bill to amend the Co-operatives Act. The bill, which was an excellent piece of legislation, was supported by this side of the House. However, within a few weeks of its passing this House a couple of flaws were noted in it, which required a minor amendment bill to be rushed through the House. At the time the then Minister sought the assistance of the Opposition to ensure that the amendment was passed quickly. His argument for the amendment was that an unintended consequence of the bill would affect, guess who? - the Letona Co-operative Limited at Leeton.

The Opposition agreed to the amendment. There was a bipartisan approach to support the Letona Co-operative, and the Opposition did not want the bill to unintentionally affect the continued operation of Letona. Only a few months later this Government is wiping its hands of Letona. I thought it was poor that Government members kicked the Letona managers when others are fighting to save the co-operative. The Government talks microeconomic nonsense that governments should not assist private enterprise, but it has been doing just that for years. I cannot understand what the difference is in this instance. The Government could tie Letona to conditional grants, with signed agreements and conditions such as those set out in this bill, but it is letting it go. Unfortunately, the Murrumbidgee Irrigation Area and Leeton will suffer as a result.

All honourable members would think MIA to be the jewel in the crown of agriculture in this country, not just in New South Wales. Letona has been an Australian icon for years. It is a shame to see honourable members who represent that region wipe their hands of it today. I hope that all honourable members, particularly Independent members who will decide the fate of this bill, will support the legislation. It is not about throwing good money after bad, as one member said last Thursday; nor is it about propping up poor management. This bill is about keeping Letona going financially, making sure that there are markets for its products, securing employment and, through the legal processes of government, ensuring that the Letona management operates within the guidelines set by the Government. If this Government is to give the money, it will have the whip hand in the future management of Letona. I support the bill.

Mr WINDSOR (Tamworth) [4.42]: As the honourable member for Mount Druitt said, the future of this bill will depend on the voting patterns of the Independent members of Parliament. This is the second time I have spoken on this issue. Last week I spoke on the bill introduced by the honourable member for Drummoyne and today I am speaking on the bill introduced by Reverend the Hon. F. J. Nile. As this bill will be determined by the Independent members, I am a little disappointed that other Independent members have not been prepared to speak to it. This bill will have a great impact on the Murrumbidgee Irrigation Area, the people of Leeton and those connected with the cannery. It will have a significant impact as a precedent for what governments can and cannot do in relation to private enterprise.

As an Independent member of Parliament I will be opposing this bill, although I have some sympathy for the sentiments expressed by Reverend the Hon. F. J. Nile when he introduced it in the upper House. On reflection, and given the time that has elapsed since the bill was introduced, and in the full knowledge of all the facts, I would be reasonably sure that the honourable member would be reconsidering his own point of view. This issue is over. There is nothing that this bill can do that will assist the Letona cannery. The issue is over: the debate is a re-run of last week's debate. I agree with the comments of the honourable member for Wagga Wagga, who said that this issue has been overtaken by politics. Perhaps an arrangement could have been put together at an earlier time, when the receiver-manager believed there was a glimmer of hope, had the Federal Government come to the party. But time has run out. It is being cruel to the people of Leeton to give them false hope that the Government will fund the cannery.

I am sure that Reverend the Hon. F. J. Nile had good intentions in introducing this bill. However, I believe that if it is passed it will create bad feeling and cause damage to the individuals concerned - irrespective of whether one bill or both bills are passed. The amendment moved last Thursday by the honourable member for Wagga Wagga to the bill introduced by the honourable member for Drummoyne has been a good thing in hindsight, for it has provided a delay over the weekend so that the Federal Government could present its credentials by assisting in a funding package. As the honourable member for Wagga Wagga said, Senator Nick Sherry, on a visit yesterday, virtually stated that there will be no assistance from the Federal Government.

I am not sure whether the honourable member for Drummoyne will speak again on this issue. If he does, I would like a firm indication - not some crystal ball gazing or hoping or praying - that Bill Kelty will come to the assistance of Letona. I would like a firm commitment that the Federal Government is willing, if the amendments are passed, to fund half the rescue package. I do not believe the honourable member can give that commitment, particularly in light of the facts given to Senator Sherry yesterday. I believe two issues can still be addressed positively. One relates to Batlow. I believe the receiver-manager is doing what he can to keep the Batlow operation under way and that in time it will be a successful operation if it can be married into a larger concern; and moves are afoot in that regard.

Page 5399

The second and probably most important point that we should be addressing, rather than playing a cruel game of politics, is the $2.3 million or $2.4 million that the growers are out of pocket. As I said last week, the growers are paramount in relation to any solutions, even though I believe the cannery will not go ahead under its current structure, irrespective of these bills. I urge the Minister and the Premier, when considering the growers' financial plight, to look very carefully at making grants rather than providing loans. I encourage all members of this House to apply as much pressure as possible to ensure that growers are assisted. After all, there is no fault on the part of the growers; however, some board members, who represented the growers, were party to mismanagement and ineffective management on behalf of those growers.

I am led to believe that if a rescue package is put together that involves substantial loans, many growers would be unable to benefit from the loan package, particularly given the uncertainty they will face in the coming 12 months. I have spoken with many people from Leeton and with many of their representatives. My advice to them is to forget about these two pieces of legislation. These bills will not force the Government to do anything. They do no more than recommend. I would advise the people in that region to consider the suggestion of the honourable member for Murrumbidgee and look at ways and means of reorganising after the bomb goes off - I think the bomb went off about 10 days ago. It is much better that they get on with their lives and reorganise themselves. There will be an industry in the Murrumbidgee Irrigation Area, but it will not be run by the existing inefficient, mismanaged, mismatch of madmen who have been running the place for the past 10 years.

If this bill were to pass through this House I do not think that would obligate the Government to do anything. I think the Letona bills were designed to produce political embarrassment and would achieve nothing, but they could set a precedent that might be abused and used in future arguments. Early in my term in this Parliament - two years ago - East-West Airlines, a major private enterprise, was removed from the city of Tamworth. That resulted in the loss of 250 jobs in one fell swoop. If this sort of legislation is passed through the House and is honoured by the Government, it could open the door for me and other members of Parliament to introduce retrospective legislation. For example, I might introduce a bill to reactivate East-West Airlines in Tamworth and have the Government pay the people who were put out of work. It is not the Government's role to involve itself in failed enterprises.

The Letona bills do nothing to assist people, particularly given the Federal Government's failure over the weekend to honour any sort of obligation it may have had. The honourable member for Wagga Wagga gave the Federal Government the opportunity to take that option. The bills will fail the people. Earlier the honourable member for Port Stephens mentioned industry in country areas, regional development and a number of other issues, with which I agree wholeheartedly. A number of issues need to be addressed to encourage regional development and business within country areas.

I remind the honourable member for Port Stephens that his Crown Lands (Prevention of Sale) Bill could decimate farming in New South Wales. Since the introduction of that bill, five members of my electorate have come into my office in a distressed state. They had negotiated sales of their land. In four cases the land had been previously sold on three or four occasions. It is farming country. It is not sensitive land. These people signed legal documents of sale to freehold their Crown leases. The sales are dependent on the land being freehold. If this bill is not withdrawn by the end of the month - which effectively means this week - three land

sales will fail. People will be in all sorts of trouble with financial institutions and the people to whom they are obliged to sell.

If the honourable member for Port Stephens is genuinely concerned about the future of the biggest business in country New South Wales - farming - I urge him to withdraw this ridiculous piece of legislation and to reintroduce in the new year the real piece of legislation that he is obviously talking about. That will give the big country business of farming in New South Wales the opportunity to get on with normal business without interference or a cloud of uncertainty hanging over it. I believe the issue of Letona is over. Honourable members know that this bill, or the other bill of the honourable member for Drummoyne, will not force the Government to do anything. This bill is one of recommendations. Independent members who have not been in the Chamber while any of this legislation has been discussed, and members opposite, will determine the future of the bill but have not offered an opinion. I urge them to stop being cruel to the people of Letona, and vote against the bill.

Mr J. H. MURRAY (Drummoyne) [4.55], in reply: In politics 24 hours is a long time. Honourable members have talked about the debate last Thursday and have read articles from newspapers. The Minister has said continually, both inside and outside the House, "We are not shifting. We believe we cannot assist Letona". The Minister was offering the growers only 25 per cent of the moneys owed to them, but yesterday he changed that. He rang the growers and said, "Will you take 50 per cent?" This is the Minister who said, "Nothing is for change". But when it suits him, he can find time -

Mr Causley: On a point of order. I should like the honourable member for Drummoyne to inform me from which newspaper he has taken the quotation.

Mr J. H. Murray: On the point of order. I did not quote from a newspaper.

Mr SPEAKER: Order! No point of order is involved.

Page 5400

Mr J. H. MURRAY: Honourable members opposite have said time and again that this bill is cruel. If the Minister for Agriculture and Fisheries were a grower in Leeton or Batlow, or if he were a worker in either of the canneries, or if he were working for the butchers or the bakers or the people, providing -

[*Interruption*]

The Minister might laugh, but those people see their businesses going to the wall. It is cruel for the Government and a Minister to say to those people, "We will not help you". The Minister has to back the local member, who has a philosophical point of view as dry as the Sahara Desert. As the honourable member for Riverstone said, each time a problem has arisen in the Murrumbidgee electorate the honourable member for Murrumbidgee has said, "Governments are not in the business of assisting anyone in the rural area". The Minister has been forced to back the honourable member's philosophical bent; he has been forced to go out on a limb to back one of his colleagues.

I know that the Minister has some blood in his veins and that he does not really believe that he should provide a cruel end to the wonderful areas of Leeton, Batlow and Griffith. The Minister knows, because he has been told by the receiver, that if this bill is not passed that cannery will fall over and there will be no Federal assistance. This is the first step. If the cannery is to be saved and the people looked after, assistance has to come from both the State and Federal governments. That is inherent in the bill. Members of the Government might say that the honourable member for Drummoyne does not know what is going on and that there are difficulties, but it is in the bill. Next week, after this bill has been passed, the Leader of the Opposition and I will go to Canberra. The Premier could come along. We have made phone calls and we have appointments.

Mr Cochran: You were in Canberra before.

Mr J. H. MURRAY: That is right.

Mr Cochran: What did you get?

Mr J. H. MURRAY: I will tell the honourable member for Monaro what we got. The commitments are contained in the bill.

Mr Causley: Where are they?

Mr J. H. MURRAY: The Minister said earlier that we have to put something in the bill that commits the Federal Government, but we cannot do so by law. In 1901 we lost our autonomy; Australia is now a Federation. This bill is the first step towards achieving a commitment. Not one Government member alluded to the fact that the community in this area is doing something. Honourable members heard Government members say that the cannery has had poor management and that the people play cards. All those throwaway statements do nothing more than score cheap political points. The Leeton community has raised $7 million and it is asking the Government to match that amount and come forward with $7.5 million - $5 million for the cannery and $2.5 million for the growers.

[*Interruption*]

If the Minister does not know what is happening, that is his problem. I am telling the Minister that the community is at one. It wants to save this establishment, so it is doing something about it. It is putting its money where its mouth is. Time and again in this House I have said that there has to be restructuring; there have to be changes. We all accept that and the people in the Murrumbidgee area accept that. Redundancy packages are being offered at Letona cannery. The local people are doing something about the problem. A newspaper report states:

> Mr Kerr estimated that at least 50 members of the cannery's permanent workforce of 130 would be laid off on Friday.
>
> If the Government comes through with the money, the receiver will evaluate things. James Millar told me that on Friday.

Mr Causley: On a point of order. It is very disturbing when an honourable member misleads the House. I believe the honourable member for Drummoyne has misled the House. If he believes he has not done so, he should tell honourable members where the $7 million is that the community raised.

Mr SPEAKER: Order! No point of order is involved. I am disturbed that the honourable member for Drummoyne is raising new matters in reply. He might be confused with debate that occurred at another time on another bill. He must confine himself to matters that were raised in debate on this bill.

Mr J. H. MURRAY: As Mr Speaker said, it is important for me to refer only to matters raised in debate on this bill. One of the matters raised in debate was the efficiency of the Letona cannery and the need for change, especially redundancy packages. At least the community has accepted that there must be change. I said earlier that we are not looking for another Harbour Bridge or another Eastern Creek; all we are looking for is $7.5 million. The Minister has said 100 times that if this cannery falls over the Government will lose $7 million anyway. The Opposition is asking for $7.5 million to prevent the loss of that $7 million. The best deal would be even odds. Anyone betting on a horse race would take those odds; it is a good proposition.

If this cannery was in the Premier's electorate, the Minister would be there like a flash putting the money up, issuing press releases and announcing the fact from Goulburn Town Hall. But because the cannery is not in a marginal seat the Government thinks it can disregard the community. The amount of $7.5 million is peanuts compared with past allocations the Government has made. In the past the Government put up $35 million for a person in The Hills who might have been able to win a Liberal seat.

Mr Causley: On a point of order. This matter has been debated time and again in this House. It has been proved beyond doubt that what the honourable member for Drummoyne is saying is dishonest, yet he continues to bring up this matter. He should be asked to come back to the scope of the bill.

Page 5401

Mr SPEAKER: Order! No point of order is involved. The honourable member for Drummoyne is introducing a matter that was not raised during debate. I am close to directing him to resume his seat for engaging in tedious repetition. He is going over ground that has been traversed ad nauseam. The matter he is dealing with has been debated extensively in another bill. Debate on this bill is strictly limited. I have heard debate on both bills and I assure the honourable member that he is now dealing with issues that have not been raised in this debate. He will discuss only matters raised in this debate or conclude his reply.

Mr J. H. MURRAY: As I indicated earlier, people in the Murrumbidgee area are concerned. Over the weekend the Parliamentary Secretary to the Federal Minister for Primary Industries and Energy, Senator Sherry, visited the area. The honourable member for Wagga Wagga took the time to read a newspaper report by Shane Wright, which refers to what the Federal Parliamentary Secretary said. But he read only to the point where the article states, "I do not want to give any false hope". The honourable member for Wagga Wagga should have read the last paragraph of that article which states, "I am certainly concerned about the impact of Letona on exports and the effect on the local region if the cannery closes". The honourable member for Wagga Wagga is so concerned about this matter that he wants to talk to us about it next week. If honourable members had listened to what was said by the honourable member for Wagga Wagga - it was picked up by the honourable member for Burrinjuck and the honourable member for Monaro - they would have thought that Senator Sherry had wiped that area. He has not.

Mr Cochran: No one believes you.

Mr J. H. MURRAY: The honourable member for Monaro did not believe the Opposition would be able to introduce this bill. He said that there was no hope of the Opposition ever introducing the bill in this House. We are now in a position where it could be passed today. So the honourable member for Monaro should not start telling me what the Opposition is able to achieve.

Mr Cochran: It is a conspiracy.

Mr J. H. MURRAY: I forgot to mention the Australian Security Intelligence Organisation. I had better get back to ASIO and all those reds under the bed. Senator Sherry will have to watch out for the reds under the bed when members of the Government talk to him. The honourable member for Monaro has a fixation on socialists. He should forget all that and stick to the facts. The facts are that this industry is worth saving and it is important for us to save it. The Federal Government understands that. Only today the Opposition was in touch with Bill Kelty. The last time I mentioned Bill Kelty's name the honourable member for Wagga Wagga said that he would not be interested. The Federal Government is interested but, as I said earlier, we cannot commit the Federal Government. Nothing will be forthcoming from any outside organisation until the will of the New South Wales Parliament is determined. We are halfway there. This bill, which has been through the upper House, received majority support from the Opposition, the Democrats and the Call to Australia party.

I hope that when the bill is voted on in this House it will also receive majority support. The bill will therefore reflect the will of the elected people of the State. If the Government puts its head in the sand about any bill that is passed in the House by a majority of members representing the electorates of New South Wales, it has not understood the Westminster system of government. The honourable member for Tamworth was worried about the terminology of the bill. In fact, the Minister spoke about the word recommend. The word recommend appears in the bill because it is a money bill. A money bill cannot go from the upper House to the lower House unless, according to the Parliamentary Counsel, that word is included in the bill.

This is the third bill recommending that money be spent to have come from the upper House to the lower

House. The other two bills were passed and have been acted on by the Government. One was an education bill. The year the second bill went through slips my mind. This is a serious bill that has been drawn up within the terms of past usage of the upper House and the lower House. If the Government decides not to act on the legislation if it passes the lower House, it does so knowing that it has the recommendation of the Parliamentary Counsel and of the Clerk of the Parliaments. The Opposition and other organisations are calling on the Government to do something about this matter.

The honourable member for Monaro has said that the honourable member for Murrumbidgee has supporters and that the whole community believes that his desire that the cannery close is acceptable. One of the major local supporters of the National Party, the New South Wales Canning Fruitgrowers Association, does not believe that. It announced a unanimous decision to urge the honourable member for Murrumbidgee to support the bill introduced by Reverend the Hon. F. J. Nile. The honourable member for Murrumbidgee was urged to take whatever steps were necessary to support the bill in what appears to be the last hope of saving Letona.

Mr Causley: On a point of order. The honourable member is introducing new information into the debate. My understanding is that a meeting of the Canning Fruitgrowers Association held at Shepparton failed to support a motion that money should go to Letona.

Mr J. H. Murray: On the point of order. The honourable member for Monaro clearly said that the honourable member for Murrumbidgee has the full support of the electorate and that his support is growing. I am attempting to show that one of the major supporting groups has changed and has now decided to pass a motion. It is important that this matter be placed on the record.

Page 5402

Mr SPEAKER: Order! It is drawing a longbow to introduce what is clearly new argument at this stage of the debate, although the member may refute a statement that perhaps support is growing or declining. I shall consider the matter further during the dinner break. It is now 5.15 p.m. and the debate is interrupted for private members' statements.

Mr Nagle: I wish to make a personal explanation.

Mr SPEAKER: The Clerk has pointed out to me that the bill before the House has been given precedence over all other business. The honourable member for Drummoyne may continue. There will be no private members' statements this afternoon, or they can come on later. However, this debate takes precedence over private members' statements.

Mr Nagle: I wish to make a personal explanation.

Mr SPEAKER: Order! The honourable member cannot make a personal explanation. There is a question before the Chair. The honourable member for Drummoyne may continue. On the point of order, I remind the honourable member for Drummoyne that he should be careful about the extent to which he refers to this subject, because it seems to be a matter quite different from matters that were raised in the contributions of other members.

Mr J. H. MURRAY: The Minister for Agriculture and Fisheries has continually said it is all too hard, too difficult -

Mr Causley: It is all too late.

Mr J. H. MURRAY: It is all too late. If the Minister thought it was too late, why did he use the forms of the House last week to prevent the bill coming to fruition?

Mr Causley: We did not.

Mr J. H. MURRAY: You did. There is not a member in this House who does not know that the Minister used the forms of the House to prevent the bill coming on. This legislation is difficult. It asks the Government to show a little compassion - only a little; $5 million worth of compassion. Considering the compassion that the Government has shown in the past, it is peanuts. Compared with the Budget and money that is put aside by the Government, it is peanuts. The Government is being asked to look after a regional industry, a processing industry - an industry that processes raw material at its source. We will have to depend upon those industries in the future in rural New South Wales. The Government is being asked to do something about the spread of Sydney and the urbanisation of the east coast of New South Wales. It should encourage people to go to regional New South Wales and, where there are difficulties, show its willingness to provide a back-up. There are line items in the Budget for that purpose, and money is voted for it.

Mr Causley: On a point of order. The honourable member for Drummoyne continually tries to mislead the House about Budget line items. He knows full well that they have nothing to do with this bill or with Letona. They have everything to do with regional development and with the rural assistance scheme that his colleagues in the Federal Government have refused to allow to be used for this purpose.

Mr SPEAKER: Order! I uphold the point of order. I remind the honourable member for Drummoyne that this matter was not raised by any member who has spoken in the debate. The House is hearing for the third time discussion about peanuts. The bill deals with the Letona cannery, not with Queensland peanut farms. The honourable member should conclude his reply and not be tediously repetitious.

Mr J. H. Murray: On the point of order. I draw your attention -

Mr SPEAKER: Order! I have ruled on the point of order. The honourable member should continue with his reply. I have not prevented him from doing that.

Mr J. H. MURRAY: The bill is about helping people who have decided to help themselves - they have put up money. Today they have taken redundancies. The growers have been approached by representatives of other canneries seeking to take their raw materials. They have said they will not sell their materials to other canneries while ever there is a chance that the Letona cannery and the Batlow cannery will remain open. The growers have demonstrated that they have a 100 per cent commitment. The only people on this earth who do not believe in assisting those who help themselves or looking after those who are willing to take action to help themselves are members of the New South Wales Government.

When an election is pending, the Government will have big problems. The people of New South Wales know that the Government can find money for its mates, such as Fairfax and others, and are therefore sceptical when the Government says it cannot find $7.5 million, which has already been allowed for in the Budget, to save a national icon. There is no way in the world that the people of New South Wales will support the Government. At the moment Government members may think that the Labor Party is doing it a bit hard in the bush, as it only holds three country seats.

Mr Clough: They are very important seats.

Mr J. H. MURRAY: They are important. The information that is coming from the honourable member for Bathurst, the honourable member for Port Stephens and the honourable member for Broken Hill is that the Labor Party will have a bonanza at the next elections because of the attitude the Minister has taken and the attitude of his predecessor as Minister for Agriculture. If members on the Government benches speak to people along the coast of New South Wales, they will learn what those people think about the Government and they will know that what I have said is correct.

I suppose my remarks apply equally to the seat of Wagga Wagga. I was particularly disappointed with the honourable member for Wagga Wagga. I know that he has a commitment to looking after this

area. Recently he stated that a lot of politics were involved in this issue, but that he is not involved in politics. He is only a politician, but is not involved in politics. He can look at issues from the fringe. He understands that the Government should be doing more than it is. I acknowledge that he has had a change of heart in the past three or four days. Obviously the Minister has got to him and told him that if he intended to stand at the next election and did not want the National Party to put someone up against him, he had better stay in line. I commend the bill.

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

The House divided.

Ayes, 46

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Mr Mills
Mr A. S. Aquilina	Ms Moore
Mr J. J. Aquilina	Mr Moss
Mr Bowman	Mr J. H. Murray
Mr Clough	Mr Nagle
Mr Crittenden	Mr Neilly
Mr Doyle	Mr Newman
Mr Face	Ms Nori
Mr Gaudry	Mr E. T. Page
Mr Gibson	Mr Price
Mrs Grusovin	Dr Refshauge
Mr Hatton	Mr Rogan
Mr Hunter	Mr Rumble
Mr Iemma	Mr Scully
Mr Irwin	Mr Sullivan
Mr Knight	Mr Thompson
Mr Knowles	Mr Whelan
Mr Langton	Mr Yeadon
Mrs Lo Po'	
Mr McBride	*Tellers*,
Dr Macdonald	Mr Beckroge
Mr McManus	Mr Davoren

Noes, 44

Mr Armstrong	Mr D. L. Page
Mr Baird	Mr Peacocke
Mr Beck	Mr Petch
Mr Blackmore	Mr Phillips
Mr Causley	Mr Photios
Mr Chappell	Mr Richardson
Mrs Chikarovski	Mr Rixon
Mr Cochran	Mr Schipp
Mrs Cohen	Mr Schultz
Mr Collins	Mr Small
Mr Cruickshank	Mr Smiles
Mr Downy	Mr Smith
Mr Fraser	Mr Souris

Mr Glachan	Mr Tink
Mr Humpherson	Mr Turner
Dr Kernohan	Mr West
Mr Kinross	Mr Windsor
Mr Longley	Mr Yabsley
Ms Machin	Mr Zammit
Mr Merton	
Mr Morris	*Tellers*,
Mr W. T. J. Murray	Mr Jeffery
Mr O'Doherty	Mr Kerr

Pairs

Mr Carr	Mr Fahey
Mr Harrison	Mr Griffiths
Mr Shedden	Mr Hartcher
Mr Ziolkowski	Mr Hazzard

Question so resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clause 5

Mr SCHIPP (Wagga Wagga) [5.34]: I move:

Page 2, clause 5, lines 21 to 25. Omit all words on those lines, insert instead:

5. To assist in the implementation of the Business Plan, Parliament recommends that the State provide financial assistance to Letona by means of a grant in the sum of $5,000,000 contingent upon matching financial assistance being provided by the Commonwealth.

My amendment is consistent with the amendment I moved last week to the motion moved by the honourable member for Drummoyne on behalf of the Opposition. Its intention is to put in place what I believe every honourable member of this House considers is necessary for the plan to be successful, that is, a nexus between the Commonwealth and the State to ensure that the amount of money required by the receiver - as stated by him to many people - will keep this business afloat. On a number of occasions I interjected and asked the honourable member for Drummoyne to explain why he thinks the Commonwealth has made a firm commitment to put money into this rescue plan. Clause 5(1) of the bill states:

To assist in the implementation of the Business Plan, Parliament recommends that the State provide financial assistance to Letona by means of a grant in the sum of $5,000,000.

That is clear; there is no doubt about what is stated there. As the honourable member for Drummoyne said, it is a matter of airing the will of the Parliament more than imposing something on the Government. Nevertheless, it is an important principle to remember. I recognise that the Parliament cannot impose an obligation on the Commonwealth to provide money but it can state in succinct terms that there is a nexus between what the State is expected to do and what the Federal Government is expected to do. My amendment reflects a contingency between the two grants of money. I say that in direct terms because Senator Nick Sherry did not give any hope, despite assertions by the honourable member for Drummoyne that I was attempting to cut short the quotation

from the newspaper.

Shane Wright, of the Wagga Wagga *Daily Advertiser*, yesterday spoke directly with Senator Nick Sherry when he was in Griffith but Senator Sherry did
Page 5404
not make any commitment beyond what was reported in the paper, that is, that he did not want to hold out false hope. During the division today the honourable member for Drummoyne told me that he and other members of the Opposition will meet with Bill Kelty on Tuesday of next week. The honourable member for Drummoyne should not shake his head because I asked him the question directly, "Have you any clearer indication now than when I spoke on this matter last Thursday?"

Mr J. H. Murray: He will be organising a meeting.

Mr SCHIPP: I was seeking, not a cast iron guarantee, but a much firmer indication than we have heard to date by way of written response to the Minister for Agriculture and Fisheries and something more substantial than the statement by Senator Nick Sherry, who seems to have the carriage of this matter on behalf of the Hon. Simon Crean. Though the honourable member did not tell me he would be getting a clearer and firmer undertaking from Bill Kelty next Tuesday, he implied to me that this was wrapped up. If that were the case, I would be the first to join with the honourable member for Drummoyne and say that it is worth the try. I said that last time. It might be thought that last week I moved the amendment on behalf of the Government to extend the debate. I did no such thing. In fact, quite a few people were annoyed with me until they realised later that what I was saying made sense. The receiver has said that half-baked measures and $5 million will not save Letona, and that is leaving aside the issue of growers. He said that they need all or nothing, not half-way measures.

If the honourable member for Drummoyne had been able to tell the House today that Canberra assured him that the $5 million was available, I would be thinking differently about my vote. The acid test is on the Opposition to find out whether it is playing games. The honourable member for Manly will agree that on more than one occasion last week the honourable member for Drummoyne, on behalf of the Opposition, stated that he would accept the amendment that I proposed last week. I trust that acceptance will now be transformed into a vote supporting the amendment I have moved today. It will draw the matter into the open.

I said last week that on the day before the bill was brought on I had spoken to the receiver, who told me that the matter had to be resolved in 48 hours. He said that if the situation was not known by late Friday, 12th November, the point of saving anything had passed because redundancy notices were to be issued on Monday. It is now a matter of history because redundancy notices have been issued. The receiver also said that redundancies were not the end of the world though they were the start of the winding up process. I will not impose the time limit that I had placed on the Opposition or the Federal Government. That will test their sincerity because my amendment will establish a demonstrably plain and simple to understand nexus between the money put up by the Federal Government and that put up by the State Government. I give the Opposition a tip: the establishment of a nexus puts more pressure on the State Government because it has real meaning in the political arena as well as the public domain. I trust that this amendment has the unanimous endorsement of this Chamber, to fully recognise the connection between the two amounts of money. If those two sums of money are forthcoming, they will go some way towards saving this co-operative. I believe it is worth saving, if at all possible, but not by half-baked measures.

Mr HATTON (South Coast) [5.41]: I do not question the sincerity of the honourable member for Wagga Wagga. The amendment is good but the problem is that it is caught up in tactics. Last Thursday we experienced a timewasting exercise and hence this counter tactic today by the Opposition to bring the matter on. Honourable members are faced with the practical situation that this House will not sit next week and that Reverend the Hon. F. J. Nile is likely to be away. If this amendment is carried, it must be agreed to by the upper House unless there is a commitment from the Government to support the amendment. I take it the honourable member for Wagga Wagga is speaking for himself. Obviously, if there were no commitment to support the amendment in the upper House, the amendment will be defeated. In any event, the bill will not pass

through all stages this week. No doubt the total amount of money from the State and Commonwealth is needed, but my concern is that the logistics may determine whether the battle to save this co-operative will succeed or fail.

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [5.43]: The honourable member for Wagga Wagga raised this amendment last week. Whether members opposite believe it or not, it was not a deliberate filibuster last week. I assure the Committee that the honourable member for Barwon was not on the list of speakers to the bill, so it was not a deliberate tactic. I am concerned that the honourable member for Drummoyne continually misleads this House. He misled the House again today when talking about the canning fruitgrowers. The Australian Canning Fruitgrowers Association did not carry a motion as stated by the honourable member for Drummoyne.

Mr J. H. Murray: On a point of order. The Minister has said that I misled the House. I was reading from the New South Wales Canning Fruitgrowers Association media release. If I am misleading the House -

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

Mr CAUSLEY: That was not the meeting that the honourable member for Drummoyne alluded to. He alluded to the meeting of the Australian canning
Page 5405
fruitgrowers held at Shepparton. He should get his facts right. Those fruitgrowers did not support the motion. Nevertheless, I have listened carefully to the promises the honourable member for Drummoyne has made to this Committee about how the Federal Government will support Letona. I should like to give him the chance to show how good he is with the money from the Federal Government. To allay the concerns of the honourable member for South Coast, I assure the Committee that if this amendment is carried I will speak with the Premier to see whether the Government can facilitate the motion in the upper House. We will leave it to the Federal Government to see whether it comes good with support for Letona. I do not believe anything that Opposition members have said in this Chamber; I believe many people have been hoodwinked.

Mr J. H. MURRAY (Drummoyne) [5.46]: As the honourable member for South Coast says, the difficulty is that Reverend the Hon. F. J. Nile is in hospital and has been paired with the Hon. R. S. L. Jones. If this amendment goes back to the upper House, with conditions as they are in that place and if members vote in the same way as they did previously, the bill will fail.

Mr Causley: That is if they want to do that.

Mr J. H. MURRAY: We do not know. The honourable member for South Coast sought from the Minister a commitment that if this amendment is supported in this House it will proceed through the upper House in an expeditious manner, return to this House and the bill be accepted here today. The Minister did not answer that question. I heard the Minister say that he will discuss it with the Premier. What if the Premier says no? We will be stuck in no man's land and the forms of the House used today to get the bill through will have failed. The amendment of the honourable member for Wagga Wagga has substance, but I am not sure that it is worth taking the risk to vote for it.

Mr Cruickshank: You are twisting it around.

Mr J. H. MURRAY: I am not twisting anything. I am not certain that it is worth the risk of voting for this amendment on the assumption that the Minister will talk to the Premier, because the Minister might do whatever the Premier wants him to do.

Mr West: You spoke about talking to your mates in Canberra.

Mr J. H. MURRAY: We are talking about the amendment and the practicality of voting for it, which has some flavour about it. If this amendment had not been moved last Thursday the honourable member for

Barwon would not have been in the Chamber and the bill would have passed through all stages. Because we spent some time debating the amendment and the honourable member for Barwon spoke for almost half an hour, we were dudded and ran out of time. I assure the Committee that I do not want that to happen again. I ask the Minister for Agriculture and Fisheries and Minister for Mines to give a guarantee that the Government will support this amendment in the upper House and expedite the passage of the bill through this Chamber tonight.

Mr WINDSOR (Tamworth) [5.49]: I will support this amendment and urge other honourable members to do so. I have spoken against both bills, that is, the bill introduced by Reverend the Hon. F. J. Nile and the bill introduced by the honourable member for Drummoyne. I believe the bills will not be acted upon as they stand. Having regard to the statistics, I believe the Government will take care of the growers. The bill refers to an amount of $2.5 million by way of rural assistance to growers. The other assistance demanded by this bill is $5 million from the State Government.

I have spent some time with the receiver on this matter, and I also spent time with him when he was receiver-manager for the Grain Sorghum Marketing Board and for the Oilseeds Marketing Board. I have the highest regard for James Millar as a receiver and as a man with great knowledge of primary industries. Anyone who took the time to speak with James Millar would realise that $5 million will do nothing for the cannery at Letona. If anything is to be done, it must be all or nothing. The amendment moved by the honourable member for Wagga Wagga puts an obligation on the Federal Government in a sense to supply the other part of the financial assistance. If that other $5 million is not forthcoming, the bill as it stands is ridiculous. Even if the finance were delivered, it could do nothing to save the cannery.

I urge the honourable member for Drummoyne to stop playing this game of highjinks; it is a cruel trick to play on the people of Leeton. In effect, $5 million will do nothing. The bill refers to financial assistance from the Commonwealth, and the honourable member for Wagga Wagga is attempting to put in place a vehicle by which the total amount of money can be provided. If the honourable member for Drummoyne and others are so certain of their Federal colleagues, they should have no problem in supporting this amendment.

Mr PEACOCKE (Dubbo) [5.52]: I support the amendment. I support also what has been said both by the honourable member for Wagga Wagga and the honourable member for Tamworth. I too have spoken with the receiver. Though it is my preference that some new organisation should emerge in Leeton to buy what is best out of the existing business so that it can carry on, this amendment is a sensible compromise. It is true to say, as the receiver has said, that $5 million by itself will do nothing. It will have no effect whatsoever. But if the honourable member for Drummoyne is correct in his assertion that the Commonwealth is willing to match this grant or even go a little further with this grant, there might be some substance in this proposal. This amendment

will provide a chance for the cannery to survive - not a great chance, but at least a chance. I support the amendment.

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [5.53]: The honourable member for Drummoyne asked me for an absolute assurance that the Government would support this amendment. He would well know that initially a decision was taken by the Government not to support the bill. The only commitment I can give the honourable member is that I am a man of my word and, if this House passes this bill, I will ask the Premier to facilitate its passage through the upper House. Honourable members opposite will not test this because they know damned well they are not telling the truth. They have been caught out before and the Government is prepared to test them. I am certainly willing to approach the Premier, and I believe I have some influence with him on this matter.

I see no member opposite who has ever been in Cabinet. The honourable member for South Coast is laughing; this must be a big joke for him. The fact is that last week he was willing to support this amendment. Now he is having second thoughts about it. Obviously he is in exactly the same category as the Opposition - prepared to lead people down the garden path, but when he is put to the test he runs for cover. I cannot believe the irresponsibility of members such as the honourable member for South Coast. Members opposite have said

in this Chamber on a couple of occasions that the Federal Government will support this, that Bill Kelty from the ACTU will support it, and that money is available to save Letona. Quite frankly, Government members do not believe that.

The Government is willing to test the Opposition, to accept the amendment moved by the honourable member for Wagga Wagga that clearly states that the Federal Government should put up $5 million in order to give Letona some chance. It probably needs more money than that, but that will give it some chance. If the bill passes this Committee with that amendment, the Government will take the bill to the upper House. I give the Committee my assurance that I will speak to the Premier about it. However, I cannot give an assurance that he will agree.

Of course, no member opposite has ever sat in Cabinet and is unlikely to do so - apart from the honourable member for Ashfield who was there for only a short period. I do not believe he would like me to discuss the period of time that he was in Cabinet. The honourable member for South Coast well knows that this matter has been decided by the Cabinet, but I can certainly take it back to Cabinet and ask that this be facilitated by the Government through the upper House. Then we will see whether the Federal Government is prepared to support the State Government. I can give the House that assurance and it is the best assurance I can give. I will give that assurance if the amendment is carried.

Mr SCHIPP (Wagga Wagga) [5.56]: I want to clarify this talk of a conspiracy to filibuster last week to eat into the time available so that the House did not vote on the motion. The honourable member for Bathurst said that I have been around this place for some time. I believe I would have detected if a stew were being cooked on this side of the House. I was annoyed because the comment made it look as though I may have been involved in the orchestration of that exercise. I want to give an absolute assurance that I was prepared to vote against the Government on that occasion if it refused the amendment.

I should like to refer to the pairing arrangements in the upper House. I do not know why it is set in concrete that Reverend the Hon. F. J. Nile has to pair with the Hon. R. S. L. Jones and why this amendment should hinge on that arrangement. Surely the important issue is the principle, whether or not we are talking the same language about the recommendation to this Government to require the Federal Government to be involved. That matter is not clear in the bill because the bill is wishy-washy in that respect. Clause 5(2) states:

> The assistance recommended by this section is in addition to any financial assistance to be provided by the Commonwealth.

That might be $1, $5 or whatever. It is non-specific. No one in his right mind could support the wording of that bill and read that meaning into it. I know what the honourable member for Drummoyne said last week about the Interpretation Act. He believes the nexus exists, but it is not set out in the bill. Honourable members opposite should take the Minister at his word. I believe he will ensure the facilitation of this bill in the upper House by an amended time frame. Something should be done about the pairing and it should be done easily enough. I cannot see why the pairing cannot be shifted. If the Government supports this amendment, it would be a huge leap for it to go back on that in the other place. There should be no conspiracy. While we play these games, the township is bleeding. There is no doubt about that.

[*Interruption*]

The honourable member for Port Stephens has his throw-away lines. He has some sort of disdain for people who live west of the mountains. He has stated that previously. People are being deluded by what is happening here today. If the Government wanted to defy the will of the Parliament, all it has to do is to do nothing until some time next year and the issue will all be over. Everyone knows that. If this amendment is passed, the upper House will have something meaningful to deal with, and the matter does not have to come back to this Chamber for debate. Criss-crossing of amendments ended a long time ago. A bill initiated in the upper House will be

returned, with amendments from this Chamber, for acceptance or rejection. I believe the Government, having

supported the amendment in this Chamber, will fulfil an obligation.

The acid test will be right back on the Federal Government. The honourable member for Drummoyne keeps telling us - and I do not want to imply that he has said this deliberately, but he may believe it - that money from the Federal Government will be forthcoming. If that is the case, let us hope that next Tuesday something comes forward from the Federal Government. However, I have not seen any evidence to persuade me that the Federal Government will help out. This amendment will put beyond any doubt the import of the legislation, which in its current form is so wishy-washy that no one could accept it as having any meaning in regard to obtaining financial assistance from the Federal Government.

Mr HATTON (South Coast) [6.1]: In the past 20 months, having regard to the balance of power, I have seen messages transmitted very fast on a number of occasions from the Executive to the Parliament. The honourable member for Wagga Wagga said that it is most unlikely that the Government, having supported the amendment in this House, would not support it in the upper House. It is not that simple. I assure honourable members that a telephone call from this Chamber to the Premier's office could fix things fairly quickly. Alternatively, we could have a short adjournment and resume after the Government gave an undertaking. Without such an undertaking, there is a grave risk.

Let me refer to who will be embarrassed. If this bill goes through unamended and the Federal Government does not honour its responsibility for $5 million, the opprobrium will be on the Labor Party in Canberra. The New South Wales Government can say, "We did our best in New South Wales. You so and sos in Canberra did not put in your $5 million. You have wasted all of these people and their jobs". If I were on the Government side of the House and wanted to win that argument, I would have no problem. With or without this amendment, the pressure is on the Federal Government. The only thing that worries me about this matter is the logistics. Like other members, I have had numerous discussions with people and have been involved in trying to get this legislation through; however, I am not prepared to take a risk.

If the Government will give such an undertaking, let us adjourn the debate and await the undertaking. The House can continue its business by taking private members' statements, which will have to follow any way. It is a simple procedural motion. It will not take long. The Government will know where it is going; we will know where we are going; and members can then vote on the amendment. In the absence of that undertaking, I certainly would not take a risk.

Question - That the amendment be agreed to - put.

The Committee divided.

Ayes, 43

Mr Armstrong	Mr D. L. Page
Mr Beck	Mr Peacocke
Mr Blackmore	Mr Petch
Mr Causley	Mr Phillips
Mr Chappell	Mr Photios
Mrs Chikarovski	Mr Richardson
Mr Cochran	Mr Rixon
Mrs Cohen	Mr Rozzoli
Mr Collins	Mr Schipp
Mr Cruickshank	Mr Schultz
Mr Downy	Mr Small
Mr Fraser	Mr Smiles
Mr Glachan	Mr Smith
Mr Humpherson	Mr Souris
Dr Kernohan	Mr Tink

Mr Kinross	Mr West
Mr Longley	Mr Windsor
Ms Machin	Mr Yabsley
Mr Merton	Mr Zammit
Mr Morris	*Tellers*,
Mr W. T. J. Murray	Mr Jeffery
Mr O'Doherty	Mr Kerr

Noes, 45

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Mr Mills
Mr A. S. Aquilina	Ms Moore
Mr J. J. Aquilina	Mr Moss
Mr Bowman	Mr J. H. Murray
Mr Clough	Mr Nagle
Mr Crittenden	Mr Neilly
Mr Doyle	Mr Newman
Mr Gaudry	Ms Nori
Mr Gibson	Mr E. T. Page
Mrs Grusovin	Mr Price
Mr Hatton	Dr Refshauge
Mr Hunter	Mr Rogan
Mr Iemma	Mr Rumble
Mr Irwin	Mr Scully
Mr Knight	Mr Sullivan
Mr Knowles	Mr Thompson
Mr Langton	Mr Whelan
Mrs Lo Po'	Mr Yeadon
Mr McBride	*Tellers*,
Dr Macdonald	Mr Beckroge
Mr McManus	Mr Davoren

Pairs

Mr Baird	Mr Carr
Mr Fahey	Mr Face
Mr Griffiths	Mr Harrison
Mr Hartcher	Mr Shedden
Mr Hazzard	Mr Ziolkowski

Question so resolved in the negative.

Amendment negatived.

Clause agreed to.

Page 5408

Bill reported from Committee without amendment, and report adopted.

Third Reading

Mr J. H. MURRAY (Drummoyne) [6.13]: I move:

That this bill be now read a third time.

Question put.

The House divided.

Ayes, 45

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Mr Mills
Mr A. S. Aquilina	Ms Moore
Mr J. J. Aquilina	Mr Moss
Mr Bowman	Mr J. H. Murray
Mr Clough	Mr Nagle
Mr Crittenden	Mr Neilly
Mr Doyle	Mr Newman
Mr Gaudry	Ms Nori
Mr Gibson	Mr E. T. Page
Mrs Grusovin	Mr Price
Mr Hatton	Dr Refshauge
Mr Hunter	Mr Rogan
Mr Iemma	Mr Rumble
Mr Irwin	Mr Scully
Mr Knight	Mr Sullivan
Mr Knowles	Mr Thompson
Mr Langton	Mr Whelan
Mrs Lo Po'	Mr Yeadon
Mr McBride	*Tellers,*
Dr Macdonald	Mr Beckroge
Mr McManus	Mr Davoren

Noes, 43

Mr Armstrong	Mr D. L. Page
Mr Beck	Mr Peacocke
Mr Blackmore	Mr Petch
Mr Causley	Mr Phillips
Mr Chappell	Mr Photios
Mrs Chikarovski	Mr Richardson
Mr Cochran	Mr Rixon
Mrs Cohen	Mr Schipp
Mr Collins	Mr Schultz
Mr Cruickshank	Mr Small
Mr Downy	Mr Smiles
Mr Fraser	Mr Smith
Mr Glachan	Mr Souris
Mr Humpherson	Mr Tink
Dr Kernohan	Mr Turner
Mr Kinross	Mr West
Mr Longley	Mr Windsor
Ms Machin	Mr Yabsley

Mr Merton	Mr Zammit
Mr Morris	*Tellers*,
Mr W. T. J. Murray	Mr Jeffery
Mr O'Doherty	Mr Kerr

Pairs

Mr Carr	Mr Baird
Mr Face	Mr Fahey
Mr Harrison	Mr Griffiths
Mr Shedden	Mr Hartcher
Mr Ziolkowski	Mr Hazzard

Question so resolved in the affirmative.

Motion agreed to.

Bill read a third time.

HONOURABLE MEMBER FOR AUBURN

Suspension of certain standing and sessional orders agreed to.

Censure

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [6.22]: I move:

> That this House censures the honourable member for Auburn for his disregard for the plight of women and children who are victims of domestic violence.

I am well aware that censure is one of the most serious things that can happen to a member of this House. I am both saddened and angry that I have to move the motion. I am saddened and greatly disappointed that anyone in our community, let alone a member of Parliament, would hold the views on domestic violence expressed by the honourable member for Auburn, which could only be described as prehistoric, if not dangerous. I am saddened that anyone in this House could claim that domestic violence is a trivial issue or, to quote the honourable member for Auburn, "a small nut".

I am further saddened that the honourable member for Auburn, who is a lawyer and a man for whom I generally have a great deal of time, would write a letter as insulting and as ill-conceived as the letter he wrote to the Domestic Violence Advocacy Service, the letter the substance of this motion. I became aware of the letter on Friday last week when I attended a function organised by the Domestic Violence Advocacy Service. At that function I was approached by Mrs Cynthia Patrick, the mother of Andrea Patrick, who, as I am sure members of this House are aware, was murdered recently by her former partner after a history of domestic violence threats.

Mrs Patrick approached me because she was concerned about the letter written by the honourable member for Auburn. She thought it might reflect the views of the Australian Labor Party and that the Labor Party might vote against the bills before the House. She was particularly concerned that he might move amendments to the Crimes Act and the Bail Act that would go against the thrust of what the Government is trying to do in relation to domestic violence. Mrs Patrick has been described to me as a woman of great courage. She is a law-abiding, no-

nonsense lady. She would not be given to hysterics, yet she was outraged. She was particularly concerned

that the sort of language used in the letter from the honourable member for Auburn could be seen to be absolutely and totally against the interests of victims of domestic violence and, more important, that domestic violence victims could be accused of some sort of hysteria. She is concerned that the honourable member for Auburn should suggest that domestic violence victims bring false allegations against their spouses. I share her outrage, as I am sure do all members of this House.

I was angered also by the comments of the honourable member for Auburn in his letter. He is effectively saying that men who systematically bash their partners, their wives and their children, should be slapped on the wrist, told to be good boys and sent home so they can continue to terrorise their families. That is an amazing suggestion. It is also an insult to the many women and children in New South Wales and across this country who are victims of domestic violence. Domestic violence is a serious and unacceptable crime; it is not a trivial issue. Men who bash their wives, their partners or their children are not - and I quote the honourable member for Auburn - "decent citizens" who have been somehow provoked into violence. They are not decent citizens whose violence is uncontrollable, though I hasten to add that the impression the honourable member for Auburn gives is that they are only uncontrollable when they go home.

If they are so uncontrollable, why are they not beating up their friends in the pub, why are they not bashing their workmates? The time that they are supposedly uncontrollable is when they are in their own homes. I reject that. They know exactly what they are doing. When they are in their own homes they are picking on their wives, their partners, their children. They know exactly what they are doing. These men are nothing but cowards. They have committed crimes and they do not deserve preferential treatment in our legal system. If they are found guilty, they should be punished accordingly. Women and children should not have to live in fear. That is what occurs in domestic violence situations.

I have moved this motion today because it is important - in fact it is imperative - that this House send a message to the community that it does not condone or support the messages conveyed by the honourable member for Auburn. This House believes that domestic violence is a crime. It will not be condoned, and those men and those few women - and I admit there are occasionally women who engage in domestic violence - will not receive preferential treatment before the law but will have to face the consequences of their actions. The honourable member for Auburn said in his letter that he did not think the solution to the problem of domestic violence is to put men or women in gaol because it hardens the heart of the persons incarcerated. They lose their jobs, they cost taxpayers money while in prison, their bitterness increases, they meet hardened criminals and, perhaps most frightening of all, the honourable member for Auburn said:

> At the moment of committing an act of domestic violence, very few people ever think about the consequences of their criminal act, because they believe they will not get caught or their rage is uncontrollable.

In other words, he suggested that victims of domestic violence have only themselves to blame. That is absolute and unmitigated rubbish. The honourable member for Auburn should go out into the real world and talk to the professionals who have to deal with this so-called small nut of an issue; talk to the police officers, young and old - some of them have been dealing with these matters for years and are absolutely sickened by the ferocity of the bashings. He should talk to the welfare workers, the ones who are at the coalface and must face the victims and attempt to bring a sense of security into the lives of those victims; talk to the refuge workers; talk to the family doctors, who come face to face daily with people with broken ribs, black eyes and terrorised children. They are the ones who are dealing daily with the victims of domestic violence.

Most important, the honourable member for Auburn should speak to the victims of domestic violence, the women and children who have been bashed, abused and threatened almost daily. Talk to them about the decency of their attackers, about why their attackers should be protected. The victims would reject entirely any suggestion that their attackers are "decent citizens". They would reject entirely any suggestion that their attackers need protection and help. As I said earlier, this House must send a very clear message to the community, to the victims and to the perpetrators: this Government will not tolerate or condone any softening of the attitude to domestic violence.

The Parliament must reaffirm the message that its members support action to curtail and, hopefully, eventually abolish domestic violence. We need to send a clear message to the men - and in large measure they are men, though there are some women - that this conduct is not tolerated by the Parliament, that their actions in bashing, injuring and terrorising their families will be dealt with by the Government. It must be made clear to the victims, the perpetrators and those who provide services that the honourable member for Auburn is misguided in his views and that this House takes domestic violence seriously.

Domestic violence is a crime. Those men who terrorise their families should not and will not be allowed to get away with it. I am well aware that today the Leader of the Opposition has chosen to distance himself from the views of the honourable member for Auburn. I hope that all members opposite will do the same. Members will not be able to face themselves if they do not acknowledge the difficulties involved with the attitude of the honourable member for Auburn. I know that it is a grave and serious matter to move censure. I did not do so lightly. However, it is imperative that the House distance itself from the misguided views of the honourable member for Auburn. The Leader of the Opposition has chosen to do so, and I know that the
Page 5410
honourable member for Blacktown is reported in this morning's press as having said that she has grave concerns about the honourable member's remarks. I understand that she suggested the person needing counselling is the honourable member for Auburn. I conclude by saying -

Mr Whelan: It is a great censure motion. The Minister has spoken for only five minutes.

Mrs CHIKAROVSKI: It was not my intention to censure the honourable member at length and drag him through the mud today. My intention was to bring to the attention of the House the grave difficulties we on this side of the House have with his views, as I am sure members opposite have, though they do not have the courage to say so. When it comes to voting on how the House views the attitude of the honourable member for Auburn, I shall be interested to see whether the honourable member for Blacktown and the Leader of the Opposition have the courage of their convictions. They have both distanced themselves from the honourable member for Auburn.

We on this side of the House have been working towards and will continue to work towards addressing domestic violence issues. This Government brought forward the legislation. We understand the problems related to this issue. If members opposite wanted me to go into detail, as I could do at length, I could speak about what the Government has done and is doing. The Government is addressing the issues related to domestic violence. It is putting money into the provision of resources and services to assist the victims of domestic violence. We created the domestic violence unit. We are the ones who are talking to the community, and that is why members opposite are upset. They know that members on this side of the House are doing the right thing.

Mr SPEAKER: Order! I call the honourable member for Rockdale to order. I call the honourable member for Smithfield to order.

Mrs CHIKAROVSKI: We are the ones doing the right thing by the women of this State. We take this issue seriously. Opposition members can talk all they like about it, but the Government is taking action. That is why members opposite are so upset. If Opposition members support the views of the honourable member for Auburn, they are total hypocrites. We on this side accept that we should be addressing the issue, listening to the concerns of those involved, talking to those engaged in domestic violence services, talking to the victims and supporting them, and not suggesting that somehow it is the perpetrators who need help, not the victims - the women, children and partners who get bashed.

I am saddened to think that the honourable member for Auburn would write such a letter. Members opposite can complain all they like, but it is not only the Government that is upset about the letter; the Domestic Violence Advocacy Service is upset about it, as are people in the field, the influential people involved in the women's movement. All of them are concerned about what the honourable member said, the message he put out that somehow domestic violence perpetrators are decent citizens. Government members reject that notion

entirely. How anyone can claim that a person who goes home and beats his wife is a decent citizen I have no idea. How can he claim that to beat one's wife inside the house is acceptable behaviour, but if it is done outside, the full force of the law should be brought down on that person? That is an absolute outrage.

Mr SPEAKER: Order! I call the honourable member for Smithfield to order for the second time.

Mrs CHIKAROVSKI: To suggest that somehow this is the result of a form of family breakdown that women impose upon their husbands and then make up fallacious stories about what has happened to them is an absolute outrage. Members opposite are embarrassed about that. They can argue their support for the honourable member for Auburn for as long as they like, but they are embarrassed. The Leader of the Opposition was sufficiently embarrassed that he had to go to the press gallery today and distance himself entirely from the views of the honourable member for Auburn. The Government will not walk away from victims. It will not walk away from its commitment to ensuring that domestic violence services in this State address the issues. It will not walk away from improving the legal position of domestic violence victims. It will ensure that the courts, the police and all those involved in domestic violence services - those who have the interests of victims at heart - continue to be supported. The Government rejects entirely the sentiments expressed by the honourable member for Auburn in his letter to the Domestic Violence Advocacy Service. I would be ashamed if Opposition members did not support the censure motion.

Mr NAGLE (Auburn) [6.39]: Earlier today on a number of occasions I attempted to get the call to make a personal explanation. Because of the forms and procedures of the House I was unable to do so. I bring these words to the attention of the House. Recently I wrote a letter to the Domestic Violence Advocacy Service at Harris Park that has caused offence. I regret any hurt and wish to apologise to those whom this letter may have offended, especially women who are suffering as a result of domestic violence in all of its forms.

I do not condone violence, never have condoned violence and never will condone violence of any type by any people, particularly in close relationships. I support the Government's domestic violence legislation and the Opposition amendments that will be introduced into Parliament this week. The law and amendments will help prevent domestic violence and will dramatically improve the rights of victims. That is where I stand on the issue. I make that clear to the House.

Mrs COHEN (Badgerys Creek - Chief Secretary, and Minister for Administrative Services) [6.40]: I have heard some of the debate thus far and agree with the Minister. I was appalled by the

comments made on the issue of domestic violence. Women in our society have been fighting domestic violence for many years. Women hope they have conveyed the message that domestic violence perpetrated by anyone at any level of society on any woman is totally unacceptable. At one stage I was fortunate and privileged to launch the report on domestic violence by the Domestic Violence Advocacy Service. If honourable members believe that domestic violence is not a serious crime, one that occurs within the privacy of one's own home, and one that can be dealt with by counselling, I shall provide some figures that will cause them to think about the seriousness of this crime and its appalling effects on our society.

Of the 2,041 victims of homicide from 1968 to 1986 inclusive, 68 per cent were females killed by family members, and 41 per cent of the female victims were killed by their husbands or defacto husbands. Men are responsible for the deaths of 97 per cent of adult female homicide victims. Almost one-quarter of all homicides in New South Wales are spouse killings. Between 1968 and 1981, in 73.3 per cent of the 296 spouse killings men killed their wives, 33 men bashed their wives to death with their fists or feet, and the list goes on. I strongly suggest that honourable members who have any doubts about the severity of domestic violence in our community avail themselves of the services of their local police force. They should accompany the police on a night patrol of any area in Sydney and enlighten themselves. I have done this and I know that the majority of the calls to police come from women who are suffering from domestic violence.

Domestic violence is not a simple crime that can be cured by counselling. The women are intimidated; they are frightened. They rarely complain the first time they are bashed. They may not complain the second

time they are bashed. They are made to feel inadequate. They usually say it is their fault and may even say, "I suppose you have seen worse injuries. I have only bruises". In the letter the honourable member sent to the Domestic Violence Advocacy Service, which appalled me, he said that people can frequently be falsely accused of domestic violence. Police are not unsophisticated. Women who complain of domestic violence are not unharmed; they are bruised and hurting. The physical signs are always there. It is a common crime.

I am very upset that anyone in our community today can believe that this matter can be easily addressed by counselling similar to the counselling provided to neighbours who disagree about a fence and those involved in petty disputes in the community. I am appalled that an elected representative of our Parliament has shown himself to be completely out of touch with the effect of domestic violence in our community. I should like to think, and I indeed hope, that every member of this Parliament understands that the Government will not tolerate this crime being carried out by any man on any woman or any child in our community. I thought we had all realised that it is a serious and increasing problem, and one that must be addressed.

Surely the message must be conveyed to the community by members of Parliament. We must say clearly to every man in the community that women cannot and should not live with this; we will not help men perpetrate this crime. We will do everything we can to stop it. I should have thought that the message issued from government agencies, from women and from community groups working with women would have spread through the community and that the platform for government policies and for changing community attitudes was clear, at least to honourable members in this House. I am appalled that anyone would be of the view that this issue could be dealt with as gently as the honourable member would seek to deal with it.

I gained the strong impression from the letter that it might be a crime to bash a stranger but it is not such a bad thing to bash a wife, a husband or a partner. I gained the feeling that men who commit domestic violence basically are nice men, that it is just something they do when they are a little edgy. We cannot accept that attitude and no member of this House can condone that. The most important message our community needs to hear is that domestic violence is a criminal act and that no woman in our community has to endure such an act. All women in our community need the right to live in safety; they should not have to fight to protect their children from this crime or live in fear and feel less than total human beings because they feel responsible when their husbands bash them. They do not need to make excuses for themselves.

Our community, and the women and children in our community, must know that they have the full protection of the law. They must know that the perpetrator can be sent to gaol for his crime and they can be protected from him. We have had incident after incident of the fatal consequences of domestic violence. The statistics I read out were but some of the statistics. There are more statistics. I could read statistics for the next 14 minutes, but I do not think I have to do that. I hope that the perpetrators of this crime realise that they will not get away with domestic violence. I hope that this House will send out the message to the community that we will not allow the perpetrators of this crime to escape. They need to know that this act is totally unacceptable in our community.

We have heard many excuses for domestic violence: it is a poor socioeconomic background that makes these adults take out their anger against women; the perpetrator was provoked; it was not really his fault, or his father before him committed domestic violence on his wife and his children. We are sending out appalling messages to the community while ever we accept these excuses. Politicians in this Parliament and every Parliament in Australia must be clear about the messages they convey. It is no longer a male sport, and it is no longer acceptable for husbands to go home and bash their wives. Women must be protected. No child in our society should grow up watching women live in fear and terror and be beaten in the way I have seen some women in our

community beaten. Perhaps everyone should read the report on the first five years of operation of the Domestic Violence Advocacy Service. It has dealt with 6,163 clients - not an insignificant number, not a few women in our community. These women told their stories to the Parramatta abuse service. I met and spoke with some of these women. I have seen the results of domestic violence - the fear and degradation of women - when I have travelled with police at night. Statistics cannot tell the story, no matter how well they are reported.

It saddens me to hear that anyone could minimise the extent of the abuse. It is difficult for people to realise the long-lasting effects abuse has on the women and children of our community. I note that the honourable member for Auburn said that it is not only women who are bashed but also men. That is true. However, the statistics show that 95 per cent of domestic violence victims are women, which is common sense because physically women cannot combat the strength of men. I trust that this House takes this motion seriously. The time has passed when we can be indefinite about our thoughts on this crime. No male has an acceptable reason for committing this crime. It is time we delivered the strongest possible message to the men in our community that they shall not be allowed to perpetrate this crime, and it is time we sent an equally strong message to the women in our community that they shall be allowed to live safely in this society with their children in whatever relationship they choose.

Mr WHELAN (Ashfield) [6.51]: Every member of Parliament has regrettable days in his parliamentary life and the honourable member for Auburn has that day today. Unlike members of the Government, I readily acknowledge his statement of apology to the Parliament this evening. The procedures of this House prevented him making that apology earlier. He sat in the Chamber all day, as you know, Mr Speaker, attempting to get the call for the purposes of making that apology. He also publicly released a statement at 5 o'clock in view of the fact that, unfortunately, procedures were not going to enable him to make the statement before the House. I am astonished by the hypocrisy of the Government. First, it decides to censure a member and then the Minister says she is not really keen on the censure motion.

Mrs Chikarovski: I did not say that at all.

Mr WHELAN: You said that you were not prepared to proceed with it.

Mrs Chikarovski: I said I was saddened.

Mr WHELAN: You said that you were happy to deliver a five-minute speech about the censure of a member of Parliament, a censure that might mean a member having to leave the Parliament. The Minister is prepared to censure a member and make only a half-hearted five-minute speech about it! I understand the Minister's sensitivity because the short, potted history of the matter is simple. The domestic violence committee produced its report in 1991 and since that time the Government has done nothing about it. The committee's report, which became public on 16th June, sets out a complete list of the modus operandi by which women in our community can be free of the problems and terrible trauma associated with domestic violence in our community.

But the principal person who failed to understand the details of domestic violence is the Attorney General. He told the people of New South Wales that women in this State were protected under the Inclosed Lands Protection Act. On Alan Jones' radio program the Attorney General said that women of New South Wales seeking protection against domestic violence could rely on the Inclosed Lands Protection Act. Does the Minister know what the Inclosed Lands Protection Act protects? It protects goats and animals. So the Minister should not tell me who is concerned about domestic violence when the principal legal officer of this State has no idea which laws protect women in this State.

The Attorney General told Alan Jones, and committed it in writing, that a bill amending the Inclosed Lands Protection Act will protect the women of this State. I shall refer to the headings of the Inclosed Lands Protection Act. The Act deals with penalties for unlawful entry upon inclosed lands and that is as close as it gets to domestic violence. It says there is a penalty for leaving a gate open. Another heading is "Owner may destroy goats". The Attorney General is relying upon the Inclosed Lands Protection Act to protect women in our community! He even got it wrong when he referred to the Crimes Act. When we deal with the domestic violence legislation, hopefully tonight, I trust that the Government will support my amendments that domestic violence be included in the section of the Crimes Act that relates to apprehended violence orders, which is where it belongs.

Because the Minister has expressed such great concern I should like to ensure that she supports the Australian Labor Party not only in relation to that amendment but in the toughening up of the Government's weak amendment in relation to domestic violence. The Government's amendment - its rebuttal of entitlement to bail - is put forward on the basis that there is a history of conviction for violence over a period of 10 years. I repeat: history is described as a conviction in the last 10 years. How many batterers go to court, Minister? The Minister does not know and does not care.

Mr SPEAKER: Order! I call the Minister for Industrial Relations to order.

Mr WHELAN: The Minister is a hypocrite because the simple fact is that anyone who has a history of violence - convicted or otherwise - should be, in the discretion of the court, refused bail. I trust that the Government will agree to my amendments in relation to the offence of stalking to ensure the protection of women in New South Wales. Of course, the Government will hide behind the veil of the terrible mistake of the honourable member for Auburn, which he has acknowledged in this
Page 5413
Parliament as a mistake and for which he has publicly apologised. This censure motion is nothing more than political opportunism by the Minister to try to prevent the legislation from proceeding. I should like to read from an American magazine a statement that epitomises the tragedy associated with domestic violence in our community. I quote:

> My husband shot at me twice but he was so drunk he missed me. I locked myself in the bathroom and crawled out the window. I ran through a field in snow knee-deep with no shoes. The neighbors took me to the hospital. The next day I was admitted to the Psych ward for anxiety. I took several tests. When the psychiatrist met with me he said I scored very high on the paranoia scale. I asked what that meant and he said, "It means you have an irrational fear that someone is out to get you". My anxiety turned to depression. I was released to go back home a week later with a prescription of valium.

That is a quote from an American magazine but it relevant to the problems confronting victims of domestic violence in our own society. The Government has done little since 1991, when it was provided with the fantastic report of the domestic violence committee. The Government also provided a hotline. Does the Minister know how long it takes to get on to the hotline? I have tried it. Does the Minister know what its recorded message says? I rang the hotline and the message says, "If you are a victim of domestic violence, hang on," and you hear music. The message victims hear a little later is, "If you are a victim of domestic violence, if your life is in danger, ring 000". If your life is not in danger, if your husband is only beating you half way to death, hang on! That person will wait 12 minutes on the hotline. It is an absolute farce. The Government makes all these announcements about the hotline, but it is doing nothing. Why does it not listen to what the domestic violence groups have to say?

At the request of the honourable member for Auburn I addressed the Auburn domestic violence committee. At the meeting were representatives of the police and other interest groups. That committee is supported by the honourable member for Auburn and has set out in brochure form what it believes should happen. It is one of the 200 domestic violence groups throughout Sydney that send ideas to the Government, but the Government turns its back on them and ignores those ideas. Since 1991 the Government has had ample opportunity to do something about domestic violence, but it has done nothing. Members opposite should read in *Hansard* of August 1992 the statement of the Hon. Virginia Chadwick that she had been advised by the Attorney General that this matter was being treated urgently.

It was not until the tragic death of Andrea Patrick that the Government was finally ignited into doing something, that is, introducing the Crimes (Domestic Violence) Amendment Bill that is now before the House. But that is a half-hearted attempt to solve a major problem. Here is an ample opportunity on a bipartisan basis to remove a social evil from our community, but the Government has a half-baked proposal. It has lost the opportunity to do something about adopting all the recommendations of the report of the domestic violence committee - a report that has been outstanding since 1991. I understand the Government's sensitivity about this matter. I understand the political reality. For those reasons I move:

That the question be amended by leaving out all words after the word "House" with a view to inserting the words "notes the apology of the honourable member for Auburn this day, in relation to domestic violence."

I so move because the honourable member for Auburn stood and made his personal explanation in his place at the first available opportunity. The Minister for Health whispers under his breath. He should stand up and have his say. For the reasons I have outlined I move that amendment and urge honourable members to set their minds not on political point-scoring against the honourable member for Auburn but on the deliberation - hopefully tonight - of the Government's agenda, namely, the Crimes (Domestic Violence) Amendment Bill. I urge the Government to consider the amendments that have been foreshadowed by me in relation to that bill. Largely, the Opposition supports the Government's bill. However, I intend to move the amendments I have indicated and I hope that the Government will take them on board. If the Government wants to get into the political arena -

[*Interruption*]

This is a straight, blatant, politically opportunistic move by the Minister for Industrial Relations and Employment and Minister for the Status of Women. I understand the politics of it. Having done that, how about looking after the women of this State?

Mr PHILLIPS (Miranda - Minister for Health) [7.4]: I had not planned to speak to this motion but I stayed to listen to the Minister move the motion and then I listened to the apology from the honourable member for Auburn. Not only was that a 15-second weak, gutless apology but it also included a lie. This is a very important issue. It is not, as the honourable member for Ashfield stated, a political exercise. This is a clear opportunity for every member of this House to totally reject the dinosaur attitudes of people such as the honourable member for Auburn about the issue of domestic violence.

I will read to the House some of the things set out in the honourable member's letter. The excerpts will clearly demonstrate how outrageous he was in that letter and how it represents in the community a dinosaur attitude - an attitude that must come to an end. This Parliament has an opportunity to send a clear message that such attitudes should come to an end. In the first instance, in this 15-second gutless apology the honourable member for Auburn indicated that he supported the bill. I notice that the honourable member for Ashfield said also that the Opposition supports the bill. But the letter states in the first paragraph:

. . . I am not in agreement with the Crimes (Domestic Violence) Amendment Bill 1993 and the Bail (Domestic Violence) Amendment Bill 1993.

There is the lie, straight off the top, yet he stands here and says that he supports the legislation. Let me move to the important aspects of this letter in which the honourable member said:

. . . I have always found that disputes can be resolved by mediation, conciliation and/or arbitration between the parties and not by hard and fast criminal sanctions . . .

. . . I have conducted domestic violence cases for both wives and husbands, and I have found, in most cases, these people are usually decent citizens.

People who beat their wives and their children and who sexually assault them are decent citizens? I do not believe it! There it is, in the second and third paragraphs. That is an outrageous message for the honourable member to send to the community. He went on to say that it has been estimated that between one in four and one in ten Australian families are disrupted by domestic violence at any given time. About 25 per cent of all offences against the person occur at home and almost half of all murders occur within the family. But the honourable member says that domestic violence is caused by decent people. He said that in Australia it has been estimated that up to one in four girls and one in nine boys have been subjected to a sexual assault before

the age of 16.

According to the honourable member for Auburn, these assaults are committed by supposedly decent citizens. As Minister for Health I unfortunately know the problems of domestic violence that come through our hospitals. Let me assure the honourable member for Auburn that these are not decent citizens. They are cowardly thugs - nothing less. If I am to spend all my health dollars counselling these domestic thugs and repairing the damage through our accident and emergency sections or in community health centres that deal with mental illness and other psychological traumas these families go through, I want to start at the beginning, right at the prevention stage.

I want this Parliament to send a strong message to every gutless, cowardly male out there that violence of any kind, in particular to wives and children, will not be accepted in any way by this Parliament. Did the honourable member for Ashfield dissent from what was said by the honourable member for Auburn? No. He quietly accepted the apology. Has he been on television totally rebutting what was said by the honourable member for Auburn? Has he been on television and radio saying that the honourable member got it wrong? No, he has not. The Government's position on this issue is quite clear. Let me continue with this letter for which the honourable member for Auburn made a 15-second apology:

> 10. At the moment of committing an act of domestic violence, very few people ever think about the consequences of their criminal act, because they believe they will not get caught or their rage is uncontrollable.

Poor little petals! They go home from the pub and their rage is uncontrollable so they beat up on their wives, but it is because they do not think they will get caught. Poor little petals! That is not the sort of message anyone should be sending in a letter. The honourable member for Auburn staggers me. But this is the one that beats it all:

> It seems that the domestic violence hysteria is equivalent to the Salem Massachusetts witch hunts of 17th Century, or McCarthyism in the United States of the fifties. To crack a small nut, (domestic violence), -

What do the figures say? One in four girls and one in nine boys have been subjected to sexual assault. Half of all murders occur within the family. What does he say?

> - people are using an enormous sledge hammer when a little claw hammer, (counselling) could achieve a better and more permanent and more satisfactory result.

What a joke! What an absolute nonsense for anyone to put in a letter! I was surprised not only at the wimpish, gutless response, with no explanation, no distancing himself and with him saying, "I got it wrong. I apologise if I offended anyone", but that he said, "Did I upset anyone?". That is all he said. He did not say, "I got it wrong. I totally distance myself from those views." Neither did the honourable member for Ashfield distance himself from them, nor did anyone on the Opposition side distance themselves from them. I hope that we hear from some members of the Opposition that they repudiate what has been said and that they distance themselves from it.

There is no question that counselling plays a role in this process. But it is not a substitute for the clear message of upfront prevention to stop what is happening, to stop those thousands of people - women and children in particular - who are attending our accident and emergency departments, who are isolated in their homes and who are scared to come forward. The Government has introduced a program to encourage these people to come forward so that we can expose domestic violence for what it is.

I do not know about the men on the other side of the House, but there is a clear message from the men on this side of the Parliament, not just the women, that we do not condone in any way any thug or coward who bashes, who mentally abuses, who verbally abuses or who intimidates his wife or their children. Instead of the two very soft remarks from the honourable member for Auburn and the honourable member for Ashfield, I hope that other members of the Opposition will distance themselves and make the position of the men and women on

that side of the Parliament clear on this issue.

The advertising campaign says it all. "Real men don't bash women" is the clear message from the Parliament that high profile people are delivering. We should take every step to discourage and prevent domestic violence. It is a clear message that I hope everyone on the other side will strongly support, as I know everyone on this side does. I do not accept the apology from the honourable member for Auburn, because it was a snivelling little 15-second remark. He does not distance himself from the issues he pursued in the letter. He does not say he got it wrong. Until I hear him say publicly, "I got it wrong", I will not accept that apology.

Ms ALLAN (Blacktown) [7.14]: I am very pleased to support the amendment moved by the honourable member for Ashfield, for a number of reasons. The first, of course, is that the honourable

member for Auburn, contrary to the comments passed by the Minister for Health, has apologised for this letter. As I have already stated on a number of occasions in the past 24 hours, I believe that the letter of the honourable member for Auburn is very foolish for a number of reasons. It is certainly an inaccurate letter. Obviously, the Minister for Health has had the opportunity to read the letter, but perhaps not everyone has had that opportunity, despite the efforts of the Minister for Industrial Relations and Employment and Minister for the Status of Women to ensure that all the press representatives received it today. If people have not read the letter and if they get the opportunity, I recommend that they do so. They will find a number of inaccuracies in relation to domestic violence.

Overall they will see it to be a very insensitive letter because it fails to take into account the problems that domestic violence causes in our society, which I must admit have been eloquently mentioned in this debate by other speakers. As we know already, the victims are mainly women and children. This letter from the honourable member for Auburn does not take those concerns into account. Unfortunately, the letter is written in such an inflammatory style that the honourable member for Auburn has brought upon himself the anger and the loathing of not only the Domestic Violence Advocacy Service but also, I would suggest, a number of women in the community who perhaps are not involved in such organisations but who nevertheless would have read the newspapers today and would have had the opportunity to see this insensitivity.

More significantly, the letter is dangerous because it seeks to reinforce very poor attitudes towards domestic violence within the community. The Minister for Health assured us that not one man on that side of the Chamber would possibly sympathise with the views expressed in the letter of the honourable member for Auburn. I say to him: walk around this place some time and you will see the sort of sexist attitudes in this place, which are often represented, ultimately, in these sorts of views. I am sure that the honourable member for Bligh could remind us of some of the examples that she has recounted in magazines like the *Good Weekend* of times and occasions late at night in this place when we have seen evidence of gross sexism from the Minister's colleagues in this Chamber.

[*Interruption*]

What is the ultimate consequence of this sort of language if not a propensity to violence? What is the difference, ultimately, between verbal violence and physical violence? The Minister for Health spoke about verbal violence. He claimed that all those men on that side of the Chamber would not possibly share these views. For a Minister of the State, he is showing incredible naivety. It is a foolish and insensitive letter. Ultimately it is a dangerous letter, because the views it expresses are views we are not seeking to reinforce in our society. But this whole episode raises the general issue of domestic violence; otherwise, I presume, we would not be discussing it. I will not accept that it is simply a politically opportunistic attack from the Minister for Industrial Relations and Employment and Minister for the Status of Women on the honourable member for Auburn. I assume she has some real commitment.

[*Interruption*]

She is interjecting now. I will be interested to hear her speech in reply, and I will leave it until then. I

should like to refer to another letter written only last month from the same organisation, the Domestic Violence Advocacy Service, to the Minister for Community Services in relation to the domestic violence 008 hotline. The honourable member for Ashfield has already referred to the 008 hotline and I do not want to go over that issue at great length, but I should like to focus on one particular sentence in that letter - a pronouncement about domestic violence in this State. The Domestic Violence Advocacy Service, in its letter to the Minister for Community Services, stated:

> As you would be aware, domestic violence is a complex issue with potentially tragic consequences.

The letter continued:

> It is crucial that all staff are provided quality training to enable them to respond in an appropriate way to women in crisis and to make high quality referrals.

Even on 2nd September the Domestic Violence Advocacy Service task force was attempting to remind the Government that domestic violence is a complex issue. The Domestic Violence Advocacy Service in its letter referred also to the need for appropriate resources to be allocated to ensure that this issue is tackled seriously by this Government. Other letters from similar organisations to this Government in recent times also call for tough laws to solve the problems of domestic violence. We will achieve nothing in this State about domestic violence merely by passing a censure motion. We will do something about domestic violence if this Government allocates appropriate resources and passes tough laws to ensure that this issue is adequately dealt with.

The performance of the honourable member for Auburn in relation to his letter has been highlighted, but we should look also at the Government's performance. There has been no shortage of talk about the issue. Today we heard public wailing performances by the Minister for Industrial Relations and Employment and Minister for the Status of Women, other sanctimonious Government backbenchers, and the Minister for Health at the expense of the honourable member for Auburn. Why do Government members not scrutinise themselves and their own performance on this issue? What allocation of resources has this Government made, even in the term of the present Minister, who is looking after women's affairs and who, therefore, should have an interest in this issue?.

My colleague the honourable member for Ashfield referred to the appalling performance of the 008 hotline on domestic violence. He mentioned that

it takes, on average, 12 minutes for a caller to get through. The feedback that I am getting from individual women and from women's organisations right around the State, including rural women's organisations on the North Coast, is that it can sometimes take up to an hour to get an answer on the 008 hotline. And then what advice does one receive? The caller is referred to another organisation such as the Domestic Violence Advocacy Service at Harris Park. So one does not get learned and trained advice from that 008 hotline; callers are referred to other services and pressure is placed on such services as the Domestic Violence Advocacy Service to solve problems that this Government pretends it is trying to solve.

The Domestic Violence Advocacy Service in its letter to the Minister for Community Services claimed that the service is inadequately staffed and that training for people answering the phones is inadequate. The Minister should depart from her script for two minutes when she is replying to this debate to tell us how the 008 hotline counsellors are trained. My colleague the honourable member for Ashfield referred also to amendments that will be moved later to the Crimes (Domestic Violence) Amendment Bill which raise the issue of tougher laws for domestic violence. I am aghast that we are debating this matter at teatime. Male members in the dining room do not mind this debate occurring at teatime as it will not cut into their drinking time later tonight. The Minister for Industrial Relations, who has been let off the leash for an hour or so, has been allowed to have this token debate at teatime. If debate had not occurred at this time, it might not have occurred at all.

This debate is all about trying to deflect attention away from the bill which will be debated later tonight - the Crimes (Domestic Violence) Amendment Bill. The honourable member for Ashfield has already signalled

that the Labor Party intends to move a number of amendments to that bill. It will be interesting to see whether the Government accepts those amendments because, as my colleague the honourable member for Ashfield has already pointed out, they are in line with the Government's own 1991 report from the New South Wales domestic violence committee, they are in line with a number of other studies that have gone on over the past few years, and they attempt to strengthen domestic violence laws in this State. Even the *Sydney Morning Herald* has taken up the cudgels of those who want to toughen up laws on domestic violence. It has exposed the Government's weak attempts to outlaw the stalking of women, for example, which is currently occurring in our society.

Some men in our community might get some extraordinary stimulation, and sense of revenge and satisfaction from stalking a female, but such acts sometimes lead to violent attacks and even murder. Stalking is allowed to go on, yet there is no attempt by the Government to stop it. Later the Opposition will be moving amendments to ensure the creation of a specific offence of stalking. The Opposition will seek to ensure also that bail is refused to those who breach apprehended violence orders, without the victim having to prove a history of violence. What will the Minister for Industrial Relations say later when the Opposition comes up with these hard-hitting amendments on this issue? Or will we hear, yet again, about the stupid letter from the honourable member for Auburn? I am sure that that is all we will hear about later. Debate later on the Crimes (Domestic Violence) Amendment Bill will give Government members an opportunity to deflect attention away from Opposition amendments. Our amendments will ensure that women and children who are stalked or who face violence receive better protection; they will enable victims of violence to take out apprehended violence orders particularly aimed at stalkers; and they will provide for a person to be gaoled for two months or face a fine of -

Mr West: On a point of order. I am loath to take a point of order on the honourable member for Blacktown, not having taken a point of order on the honourable member for Ashfield, but it is quite obvious that Opposition speakers are using this debate to signal all the amendments they will move to a bill on the notice paper that will be debated later. Clearly, the motion of censure that was moved today by the Minister for Industrial Relations relates to a letter that was written by the honourable member for Auburn. The Minister for Industrial Relations and other Government members, when debating this matter, did not refer to legislation that will be coming before this Parliament later. The honourable member for Blacktown should be asked to debate the specific matter that is before the House, that is, the letter written by the honourable member for Auburn, and the censure motion. This matter should not include general debate which will take place later.

Ms Allan: On the point of order. I refer specifically to the first sentence in the letter written by the honourable member for Auburn which states:

> I refer to your letter of 27th September 1993 and I wish to advise that I am not in agreement with the Crimes (Domestic Violence) Amendment Bill . . .

Government members have quoted that sentence ad nauseam in this debate, so it is appropriate for us to talk about the Crimes (Domestic Violence) Amendment Bill also.

Mr West: Further to the point of order. The honourable member for Blacktown has apologised because, as she has indicated, her colleague does not approve of the bill. This matter is about censure - a very specific matter. The apology of the honourable member for Blacktown is not appropriate.

Mr ACTING-SPEAKER (Mr Rixon): Order! Debate on this motion can be fairly wide, but the honourable member for Blacktown cannot at this stage canvass a bill which will be debated later.

Ms ALLAN: Members of the Opposition will raise a number of these issues later. Tonight will not be the end of the story in relation to the Opposition's campaign to press for tougher laws on this issue. I

have already indicated, as have a number of my colleagues in the parliamentary Labor Party, that there has to be further reform of the New South Wales Crimes Act to tackle a number of issues, which not only will not be

dealt with in the Crimes (Domestic Violence) Amendment Bill later tonight but certainly will not be touched upon even by the Opposition's amendments.

All the efforts the Opposition will make over the next year will be in accord with recommendations that have come forward over the past three to four years from the Government but have not been acted upon. When checking documents in my office I came across a number of the impressive publications that have been pouring forth from the Government. The domestic violence strategic plan - coloured red so that it would be read, absorbed and never lost - was released by the former Minister, the Hon. Virginia Chadwick, in November 1990. At that time she confidently predicted that the strategic plan, incorporating findings of consultants, with specific recommendations for policy development, co-ordination and service delivery, would be completed in May 1991. The plan may have been completed in May 1991 or thereabouts but effectively it has been ignored. The Hon. Virginia Chadwick must hang her head in shame that this document was released in November 1990 and has not been acted upon since. My colleagues have already commented upon the 1991 task force report.

In 1992 a regional analysis of domestic violence in New South Wales was released. That analysis was the subject of another impressive editorial in the *Sydney Morning Herald*, which gave the analysis strong support. The *Sydney Morning Herald* also carried an article by Luis Garcia, who now works for the Minister for Industrial Relations, headed "Poor Women Get Beaten More". At that time Luis knew that women living in working-class areas of New South Wales are up to seven times more likely to be victims of domestic violence than women living in wealthy or affluent suburbs. However, since working for the Minister, Luis must not have highlighted that issue to her, for no action has been taken by the Minister to tackle the problem.

What has happened in 1993? The Crimes (Domestic Violence) Amendment Bill, which will come before the Parliament this evening, has already been acknowledged as a weak piece of legislation. In addition, the Government has put forward a breastbeating proposal to censure the honourable member for Auburn - a man who has already apologised, a man who has learnt a very bitter lesson today. He has been the subject of scorn - thoroughly deserved, I might add - from all sections of the media, members of the community, his colleagues and Government members. Yet the focus of the Government's interest on domestic violence has been the censure motion.

In 1993 the only achievements will be more talk - in this case directed at the honourable member for Auburn - a very poor piece of legislation that will be carried tonight if the Government does not accept the Opposition's amendments, and not much else. One of the commitments that I and the Leader of the Opposition have made is that in 1995, when the Australian Labor Party is returned to office, action on domestic violence will be an absolute priority for the new Government. Labor will build on the reforms that were commenced by former Premier Neville Wran in the mid-1970s. Domestic violence was a priority for him as Premier, as it will be for Bob Carr when he is Premier. In 1995 Labor will not seek to waste the time of the Legislative Assembly by continuing the present Government's practice of all talk and no action.

Dr MACDONALD (Manly) [7.34]: I move:

> That the amendment moved by the honourable member for Ashfield be amended by adding, after the word "violence", the words "but disassociates itself from his comments regarding perpetrators of domestic violence."

Censure of a Minister or member of Parliament is a serious issue. The proposed censure is inappropriate in that it will interfere with the democratic process, which ensures the rights of members of Parliament to hold views. I disagree in the strongest possible terms with the views expressed and the comments made in the letter written by the honourable member for Auburn. Over the past six to 12 months I have been involved in this issue probably more than any other member. I regard the honourable member's comments as foolish, inappropriate and offensive. However, if this House censures him for expressing his views, a dangerous precedent will be set. Censure of a member for his or her actions can be appropriate and indeed has happened previously, but to censure a member for his or her views is to tread on very dangerous ground.

I was not happy with the amendment moved by the honourable member for Ashfield which sought to

enable an apology to be accepted from the honourable member for Auburn. This House should dissociate itself from the comments made by the honourable member for Auburn. I remind honourable members of an incident that occurred 12 months ago, though it may not have been reported in this House. The father of Andrea Patrick, who died some months ago, came to me about a year ago. He told me that he and his family had been hounded for years by a particular offender. He confided to me that he intended to kill the particular offender. He said that he had reached a point where it seemed that the processes of law could not handle the offender or the circumstances. He was angry, frustrated and disappointed.

The offender, as is now known, had been before the courts in a number of States. He had been before the courts for assaulting Andrea Patrick and her father. Her father came to me out of sheer frustration and said he was contemplating getting some sort of weapon and killing the man. He had reached a point where society could not help him and he was committed to protecting his daughter. I persuaded him that was unwise and would not lead to any

acceptable outcome. I counselled him against that course, and indeed he did not take that course. In hindsight one might have regretted such counsel, though I do not. That highlights the frustration that families can experience in such circumstances.

Over the past 12 months the Patrick family confided to me their difficulties in trying to find necessary protection for their daughter. They had set up a fortress in Harbord, characterised by alarm bells, mobile phones held by every member of the family, guard dogs and security gates. The Patrick family was constantly hounded by the offender. The events that occurred in the final hours of Andrea Patrick's life have been well recorded by the media and make chilling reading. I will not repeat those events. I have been as exposed as any member of Parliament, more recently at least, to the evils of domestic violence and the shortcomings that exist within our laws relating to domestic violence.

I recount those incidents because reference was made to the Patrick case by the Minister who moved the motion. Indeed the Minister informed the House that Mrs Patrick contacted the Minister in person and criticised the honourable member for Auburn. That is understandable and I share her concern about the comments of the honourable member. I am concerned also about the attitudes that still exist in society, among members of Parliament and others about who are the real offenders in these cases. I am sure, however, that the Patricks believe in the freedom of speech. I do not for a moment think that they would agree to any curtailment of a person's right to hold views. The honourable member for Auburn was wrong. I completely disagree with him, and it is appropriate that this House dissociate itself from those comments.

References have been made by members on both sides of the House to a number of documents, including the reports of the New South Wales Domestic Violence Committee and the National Committee on Violence Against Women and the national strategy. Common to all those documents is the call for a change of attitude among those who deal with these issues. It is a matter of attitude and education. A number of changes have occurred already but the attitude of some magistrates, police and the judiciary must also change. That will bring about improvement. That aside, the Premier's response, apparently to the Andrea Patrick matter, is the introduction of two amending bills.

I have spent some time with the Domestic Violence Advocacy Service and with women's groups in my electorate discussing what improvements are required. I am familiar with the needs of such groups. I shall not breach a ruling recently made by the Chair by referring in detail to another bill; I will have an opportunity to do so during the second reading stage of the bill. However, that bill does not go far enough. The Government has not made an adequate response. Some groups argue that the legislation should go further in a number of areas. I do not expect any support from honourable members for my proposition of automatic gaol for anyone who breaches a domestic violence order or who engages in stalking.

The Domestic Violence Advocacy Service wants automatic gaol for domestic violence offenders. About 12 years ago in Quincy, Massachusetts, a community of three quarters of a million people, there was united community response to an horrific domestic violence associated death. As a result any person who breaches a

domestic violence order automatically goes to gaol. In Quincy for six years no death has been associated with domestic violence. A judge there was reported as saying that a domestic violence order is a contract and anyone who breaches that contract will automatically go to gaol. This State should adopt a similar attitude. Civil libertarians cannot argue with that. A contract is a contract. If anyone breaches that contract, it should be clear to the person who offends that he or she will go to gaol.

I give notice that I will be moving an amendment in those terms. The stalking legislation introduced by the Government has problems and I will seek to improve it. The telephone interim order proposal is not strong enough. The question of whether bail should be allowed was a feature of the Andrea Patrick case. One of the reasons for bail being allowed in that case was the lack of access to interstate information. I urge the House to support my amendment to the amendment moved by the honourable member for Ashfield. On the one hand it accepts that there is a regret on the part of the honourable member for Auburn for what he said and the impact of it. On the other hand the House has a clear responsibility to dissociate itself from remarks of that type. Domestic violence is an evil crime, and currently too much emphasis is placed on the protection of the offender rather than the victim. Anything this Parliament can do, particularly with regard to amendments to the Crimes Act or the Bail (Domestic Violence) Amendment Bill, will have my full support.

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [7.45]: In speaking to the amendment, I am of the opinion that the apology by the honourable member for Auburn was, as stated by the Minister for Health, not strong - it was a half-hearted, 15-second apology and did not repudiate entirely what he said. I accept the concerns of the honourable member for Manly and his very strong view that this is a question of the right of the honourable member to make a statement in relation to this issue, misguided as that statement was. I support his amendment.

Mr Whelan: I seek the leave of the House to withdraw the amendment standing in my name.

Mr SPEAKER: Order! The Minister has exercised her right to speak on the amendment. It is necessary to put first the amendment of the honourable member for Manly to the amendment moved by the honourable member for Ashfield. To the original motion the honourable member for
Page 5419
Ashfield has moved the amendment, That all words after "House" be deleted with a view to inserting "notes the apology of the honourable member for Auburn this day in relation to domestic violence" to which the further amendment was moved by the honourable member for Manly to add the following words after the word "violence", "but disassociates itself from his comments regarding perpetrators of domestic violence".

Amendment of amendment agreed to.

Mr Whelan: I seek the leave of the House to withdraw the amendment moved by me this day. The Opposition supports the sensible amendment moved by the honourable member for Manly. I thought that by withdrawing my amendment the proceedings of the Chamber would be expedited. Obviously all I have done is complicate proceedings. The Opposition supports the honourable member for Manly. I suggest the question of leave is a matter of leave for the House to decide. I thought that my withdrawal of my amendment would facilitate -

Mr West: On a point of order. Although I appreciate the contrition of the honourable member for Ashfield, it is obvious that if he withdraws his amendment the House will, in effect, be voting on the original censure motion. Therefore, it is inappropriate for the honourable member for Ashfield to withdraw the amendment. It is appropriate for debate to continue on the amendment moved by the honourable member for Ashfield. I understand the Minister for Industrial Relations and Employment and Minister for the Status of Women has the call. She should be allowed to speak to that amendment and then, at an appropriate time, the House can proceed to vote on the amendment moved by the honourable member for Ashfield, which will mean the House is not debating, or voting on, the original question.

Mr SPEAKER: Order! I uphold the point of order taken by the Minister. The question is, That the

amendment as amended be agreed to.

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [7.50], in reply: I should like to make a number of points. I thank the members on this side of the House, who are obviously committed to ensuring that domestic violence is treated as seriously as the Government believes it needs to be treated. I should also thank the honourable member for Blacktown for her support in this debate. She has agreed with this side of the House that the letter was foolish and insensitive. She went so far as to say that it was dangerous. Obviously she will support the motion as it is now before the House. However, the honourable member for Blacktown condemned the Government. She suggested the Government was not serious about domestic violence and she gave a number of examples. She referred to the domestic violence strategic plan, as did the honourable member for Ashfield. The implication was that nothing had been done. I have the latest status report on the domestic violence strategic plan. After the first year, 68 per cent of the recommendations have been implemented. The Government decided to prepare a strategic plan and it is acting upon it, unlike members opposite, who occasionally make comments about it.

Mr SPEAKER: Order! I call the honourable member for Blacktown to order.

Mrs CHIKAROVSKI: Since I have been the responsible Minister, I understand that the honourable member for Blacktown, as shadow minister for women's affairs, has issued a maximum of four press releases.

Mr SPEAKER: Order! I call the honourable member for Blacktown to order for the second time.

Mrs CHIKAROVSKI: Her concern is obviously extremely superficial. It is entirely unacceptable that she seems to think that this Government is not committed to addressing women's issues. I take this opportunity to remind the House that the Government created a separate ministry for the status and advancement of women. This Government provided a 65 per cent increase in the budget for the women's ministry, and is working closely with service providers to ensure that adequate services are provided to the women of this State. The Government has the commitment. Members of the Opposition only talk about it - and they know it. As I am talking about language, I remind the House that the honourable member for Blacktown accused this side of the House of using inappropriate language. I would have thought "let off the leash" is not an appropriate way to talk about a member of this House. The honourable member for Blacktown should be careful about whom she is accusing of doing what. The House should be aware that $540,000 has been allocated to the domestic violence hotline. That figure includes funding for eight additional staff and the installation of a new telephone system. The honourable member for Blacktown asked how the staff were trained.

Mr SPEAKER: Order! I call the honourable member for Port Stephens to order.

Mrs CHIKAROVSKI: The staff were specially trained in domestic violence issues prior to the launch of the new service through the Department of Community Services staff training and development branch. The staff are rostered, according to the peak demand period, between 7.30 a.m. and midnight. Calls outside these hours are taken by staff of the child protection and family crisis centre, which previously provided the service. Contrary to what the honourable member for Ashfield said, the average length of time that calls await attention is approximately 4½ minutes. If the honourable member for Ashfield is calling the domestic violence hotline, he is one of the people who should not be on the line and is taking up the time of people who need the service. How dare he waste the time of the service!

In reply to comments made by Opposition speakers, I should like to say that they have sought to trivialise this debate. They have to face the

community. When the community asks, "What are your views on domestic violence?" they will have to try to justify the actions and remarks of the honourable member for Auburn. We cannot afford to play games with this issue or to trivialise it in any shape or form. The Opposition has repudiated the honourable member for Auburn in relation to this issue. The honourable member for Blacktown has said his comments were entirely inappropriate. Bearing in mind the remarks of the honourable member for Auburn, we cannot give the

perpetrators, the victims, the service providers, the police and the courts the message that we in this Parliament do not take this issue seriously. I conclude by saying that the honourable member for Manly has expressed strong concerns about the whole issue of domestic violence. Those concerns are shared by the Government. In saying that, I am confident that the Government is prepared to address the issue, in contrast to mouthing platitudes, which is all one hears from members on the other side of the House.

Amendment as amended agreed to.

Motion as amended agreed to.

FISHERIES AND OYSTER FARMS ACT: DISALLOWANCE OF REGULATION

Mr MARTIN (Port Stephens) [7.57]: I move:

That this House disallows the amendment to the Fisheries and Oyster Farms (General) Regulation 1989 (relating to bag limits, prohibited size fish and miscellaneous matters) made under the Fisheries and Oyster Farms Act 1935 as set forth in the notice appearing in *Government Gazette* No. 58 of 11 June 1993, at page 2770 and tabled in this House on 7 September 1993.

Today is the last day on which this regulation can be disallowed. I move the motion having the full support of the Opposition and the vast majority of recreational anglers in New South Wales. I speak in this debate as the Opposition spokesperson on fisheries matters and as a person who worked in fisheries for almost 18 years. I know full well that this regulation is flawed. It is flawed because it is unfair; it is not based on scientific fact and it is next to unenforceable. In 1990 I moved a similar motion in this Parliament. The Government defeated that motion not because of enlightened debate but by sheer weight of numbers. At that time the people of New South Wales were deprived of the opportunity to have laws introduced that were based on proper biological fact. All the Government has given the people of New South Wales are regulations that are totally unenforceable and cause division and mistrust between amateur and professional fishermen. This motion seeks to disallow the regulation that appeared in the *Government Gazette* of 11th June, 1993, and will not upset the regulations that were before the House prior to that date.

Tragically, the Government was supported in the other place by the Hon. R. S. L. Jones, who was of the opinion that nobody should be allowed to catch fish in New South Wales. Let me now outline the case why the Parliament should disallow the regulation. First, there is an element within New South Wales Fisheries that, either stupidly or very calculatingly, is creating a division between the professional and amateur fishers. I refer particularly to activities on the New South Wales North Coast that have stirred up discontent to such an extent that attempts are being made to remove professional fishing from that area. Unfortunately, these agitators are being aided and abetted by some persons in New South Wales Fisheries. The Opposition realises that this is a very limited resource - that is something it is very cognisant of - and that it has been poorly managed and overfished. Equally, the Opposition believes that sharing of this resource must be done fairly. That is the crux of why it is seeking to have the regulations disallowed. However, the imposition of the regulation on recreational anglers, while at the same time allowing professionals to take unlimited quantities, smacks of bipartisanship. Where are the management plans to address this issue? It is an appalling indictment of an organisation I once worked with and had the greatest respect for.

New South Wales Fisheries has had five years to put in place a logical management plan. Instead of working positively to protect the State's fishing industry, it has gone backwards. Honourable members should clearly understand that the management of fisheries should be about the protection of habitats and breeding grounds, and about allowing an environment which will maximise the number of progeny from spawnings of fish to reach a catchable size. Many species produce hundreds of thousands of young. In nature we normally replace the adults. Should we not replace the adults, the species will become extinct; if we allow excessive replacement we will have plagues - as has been seen with animals such as rabbits. There is a fine balance, and only biological research will allow us to establish that balance. This is the challenge facing the Minister for Fisheries but, unfortunately, the Minister and his administration just do not understand.

Historically, bag limits were placed on threatened or endangered species, and the Opposition accepts that there are threatened and endangered species and supports their protection. The Opposition is not attempting to disallow the previous regulation on bag limits, as I have earlier said, although it has some reservations about it. But, if this regulation is disallowed, I give the assurance it is only this regulation and not previous regulations. If the Minister wants to come back with genuine regulations, the Opposition will support them. What the Opposition is concerned about is the ill-conceived regulation that was recently laid before this House.

The Minister, in his own correspondence, clearly admits that this is a method to control the blackmarketing of fish. That is what it is all about. Yet every day he talks about deregulation of orderly marketing of fish in New South Wales and the fish markets. This in itself is clearly a condemnation of the Minister, who just does not understand. Honourable members should look seriously at the bag limits. The bag limits are not based on scientific fact. Honourable members heard screams about the imminent demise of the snapper fishery, yet in the

past 12 months there has been a glut of snapper on the Sydney Fish Market floor where the prices have become lower than $5 per kilo. At the same time, a senior scientist in New South Wales Fisheries has been publicly stating that snapper fishing is ruined. It does not add up.

Imagine a fisher sitting out in a boat, restricted to catching a set limit of fish. When he has reached the bag limit, does the fisher up anchor and head home? No way. That fisher will undoubtedly continue to fish and, if lucky enough to catch a larger fish than the previous one caught, will throw back the smaller one - which is already dead, by the way - in order to comply with the bag limit. A well recognised fact in the industry is a practice called high grading and it can only be described as a total waste of resource. While sitting in the same boat, the same fisher can see a trawler sail past and take unlimited quantities of the same species. The question we ask is: Is that fair? It is also reasonable to assume that bag limits only encourage fishers to be target oriented. It is all unfair. There are many issues the Opposition could raise but the key ones are that in these regulations there is a setting of standards based on bream and tarwhine. If I were to bring a bream and a tarwhine into this House, I would be fortunate to find two or three members who could distinguish them. I have worked with scientists who could not tell the difference between Australian bass and estuary perch.

Mr Causley: I can.

Mr MARTIN: You could? You would not know what day of the week it was, Minister. The fisher is allowed 10 dusky flathead, but with sand and tiger flathead, the fisher is allowed 20 in total. Honourable members could not distinguish them easily. I could bring two of them into the House tomorrow and I would not find more than two members of this House who could tell the difference. The Government has regulated to limit amateurs to only two yellow fin tuna and yet the professionals can take what they like. It is the same stock in the Pacific where they take out 400,000 tonnes a year. That is ludicrous. With regard to mulloway, or jewfish, there are five species of jewfish and the Government says the fisher can only take two little ones and two big ones. The fisher can take five, only two over 70 centimetres, and the Government does not know which species is breeding at what size. It does not know and cannot tell us.

The Government's arguments are flawed. When it comes to distinguishing between jewfish and teraglin, most people in this Chamber could not tell the difference. We have a set of regulations that are unfair from start to finish. As I said at the outset, the Opposition will support good regulations and fair regulations, but it will not support this. I am pleased the honourable member for Maitland is in the Chamber. I throw a challenge to him to speak to this debate because he has had similar representations made to him - maybe more than I have. If the Government says there are only six people, let the honourable member for Maitland stand up and say it, because the ball is in his court. I will say more about that in reply also.

Mr BLACKMORE (Maitland) [8.7]: Having listened to the honourable member for Port Stephens, I have taken the position that I will support the Government in its stand. I have listened to the honourable member for Port Stephens and, in all fairness, apart from moving disallowance of the regulations, he has not introduced

anything that would convince me to cross the floor and vote with the Opposition. I believe that to totally disallow the regulation is irresponsible. It would mean that the new bag limits no longer apply. There would be no control. I partly agree with the honourable member for Port Stephens when I say that the vast majority of recreational fishermen are opposed to any tightening of a leisure time activity or pastime that they currently enjoy.

However - and I have said this to the Minister and in the course of private members' statements - education is what is needed in this case, not prosecution. I agree with what the honourable member for Port Stephens has said in part. The honourable member has already compared mulloway with teraglin. A mulloway has a convex tailfin and slightly smaller scales; a teraglin has a concave tail and, apart from teraglin being caught only outside in ocean waters, the average recreational fisherman could not understand those aspects.

Yet in our part of the Hunter Valley, as the honourable member for Port Stephens is aware, the Hunter River is one of the greatest tourist resorts for people fishing for soapy jewfish, which are undersize under the provisions of the regulation. Professional fishermen trawl that river. They catch soapy jewfish. There is no by-catch, yet those fish are killed. The Minister has the same concern in his electorate. There must be an education process before we embark on a prosecution. I have raised with the Minister previously the maintaining of sham amateurs in the Hunter Valley. That is one of the reasons that restriction on bag limits was required. I have said to the Minister, and I know the Minister is responding, that if the department knows there are sham amateurs, it should prosecute them. No recreational fisherman in the Hunter Valley wants to be referred to as a sham amateur, and 99 per cent of those amateur fishermen or recreational fishermen are doing the right thing.

What is there to replace the limits now? The honourable member for Port Stephens has said the original limits, which relate to snapper and bream as the most common species, are still in place, but there is now uncertainty. I frequently visit Lemon Tree Passage, where the predominant species of fish is whiting. There are five varieties of whiting. The honourable member for Port Stephens would be as confused as I am about what species of whiting are in Lemon Tree Passage. However, the regulations mention sand whiting. I have argued with the Minister and the ministerial advisory committee that the limit is 20 whiting. Previously a recreational

fisherman was prepared to catch five fish and consider that breakfast, but now there is an inclination to say that with a limit of 20 - with three people in a boat it totals 60 - the resource will be overfished.

I have asked the Minister to keep that matter in mind when making a deliberation. There is not enough available material for an identification. I am fortunate that I carry with me a plastic covered colour booklet which shows species of fish. Constraints are placed on the Government and the department with regard to making available literature for recreational fishermen. Associations and fishing clubs had their voluntary bag limits long before this Government implemented them, so it is not something that the Government has introduced.

The "Recreational Fisheries Review" was written in such a way as to give the department answers that it was looking for. Many recreational fishermen felt that their voices had not been heard. As a member of this House, I have a right, the same as does any other member, to go direct to the Regulation Review Committee and raise concerns, which I have done. I am concerned about the manner in which the regulations are in place. However, in supporting the Government tonight I have an assurance from the Minister - and I want this assurance in the Minister's response - that he will monitor the effectiveness of bag limits within the next 12 months, and that he will hold regular dialogue with the department and recreational fishermen from which he can receive feedback.

There could still be an abuse of fisheries, and I hope that the Minister can use a stronger power, as cray fishermen are doing in Stockton Bight. There is a total ban on prawning at Stockton Bight. If the Minister feels an area is in danger of being fished out, he should place a ban on that area. I hope in the future the Minister may be able to do that in regard to the regulations. No one likes to have an imposition placed on something they enjoy doing as a pastime; and as the honourable member for Port Stephens has said, recreational

fishermen feel they are disadvantaged in comparison with professional fishermen. That is really the argument. Not enough weight is being placed on professionals. The Minister is aware of this, and he has taken certain steps.

I am a strong advocate for a mixed bag limit of 30 fish, of any variety, per person. However, that is why I am only a member of the backbench team, not a Minister. I believe the majority of recreational fishermen would agree with me. Recreational fishermen spend a lot of money in New South Wales, but controls must be put in place to ensure that I, the honourable member for Port Stephens, and any person here have the right to go fishing and are entitled to catch a fish - a natural resource - of legal size. I do not want to be the person who walks down to the nearest beach or lake on Christmas Day and tells the 10-year-old boy who has received a new fishing rod for Christmas that his fish is undersize and that he should throw it back. It comes down to education, but in the absence of any firm proposal by the honourable member for Port Stephens, I will support the Government because the honourable member for Port Stephens has moved a disallowance of a regulation with nothing in place to safeguard the natural resource.

Mr HATTON (South Coast) [8.17]: I have never been in favour of setting amateurs against professionals. There is a place for both and it is too easy, because there is a small number of professionals compared with the number of recreational fishermen, to use them as a whipping post. I would favour a better understanding. I have worked a significant part of my parliamentary life to cut down on the number of licences issued to professional fishermen. It was with dismay, for example, that early in the reign of a previous government when unemployment started to become a problem, the government issued licences to try to help the unemployed. There was no provision that a licence should be issued to a person who earns the vast majority of his income from fishing by his own efforts.

When I first raised the matter with the Department of Fisheries in the mid-1970s the department did not even know how many professional fishing licences they had issued, even though they collected fees. That worried me in terms of financial audit as well as management audit. This debate concerns management, responsibility of individuals and groups, attitudes and policing, sharing, and a fair go. If no bag limits are introduced for professionals, and if there is a bag limit on amateur fishers, a professional could take a net full of fish. If there were no professional fishermen, fish would only be able to be purchased from overseas markets. The vast majority of fish comes from lakes and estuaries. I have considered the question of zoning, the reduction in fishing licences, and I have participated in the question of quota and reduction of fishing effort. Fishing effort is the key.

I have been involved also in matters related to net sizes. At one stage I was a keen off-shore fisherperson and I am aware that quotas were placed on catches of bluefin, gemfish and orange roughie. Gemfish and orange roughie in particular were in danger of being wiped out if action had not been taken. A former director of the Department of Fisheries, Mr Don Francois, took a laissez faire attitude: let everyone go for their lives, then the fish stock will be reduced and the difficulty of earning a living will be sorted out. That put us behind the eight ball, as did the fact that some politicians did not have the courage to take action. There was a rundown of the resources made available to the department. Insufficient funding was allocated for research, policing or general management.

My response to the problem when amateur fishing groups have written to me has been that there must be a multipronged approach. There must be research, especially into the environment and water quality. That leaves all the other questions for dead. Fish have tremendous fecundity, and their numbers will build up rapidly provided the environment is right. The fastest way to undermine the fishery is to

destroy the environment. The impact of recreational fishermen by creel counting and professional catch monitoring should be researched. Other problems that must be dealt with include disease, competing species, the behaviour of species and so on. The availability of money for research is a key issue, as is education, especially on the importance of the environment.

An intensive education program must be undertaken on the need to act responsibly, especially for those

people who come from Europe, the islands, and in particular the Mediterranean region. Those people are used to walking on the rock shelves and taking everything that moves. I do not have any bad feelings about that. It is not a racial issue but rather one that requires education. In addition, more policing is necessary. Other matters that require to be addressed are the reduction in the number of licences, fishing effort, quotas, closures and adequate policing. Unquestionably, in particular areas, lakes, estuaries and off-shore reefs get a hammering, not only from professional fishermen but from recreational fishermen.

I have lived at Jervis Bay for 35 years and have fished the off-shore reef and in the bay. I am aware of the impact of fishing on that environment. Professional fishermen have not had a real impact on Jervis Bay, except on travelling fish, yet the impact from recreational fishermen has been quite severe. People say it is not possible to catch as many fish now as one could catch 20 years ago. It is a simple matter of mathematics. The electorate of South Coast as it was then had more lakes and surface area of water than do Switzerland or Scotland. Twenty years ago one would see half a dozen boats at the height of the fishing season. These days one sees literally thousands of boats. If all fishermen expect to catch the bag limit, an enormous number of fish will be removed from the estuaries and lakes, and it will not be possible to catch as many fish as was possible in years gone by.

The honourable member for Port Stephens said that the regulation is not based on scientific fact. I would not argue that point, but if one waits for scientific evidence, a lot of damage will be done to the fish stock. I remember being convinced by the Department of Fisheries about scallop dredging in Jervis Bay. I was uneasy about the matter and went in to bat for the department. It was wrong, and I was wrong and ended up with egg on my face. The resulting free-for-all on scallops denuded the area of that species. There are plenty of stories about the impact of fishing on other fish species, for example, orange roughie and tuna. The difficulties of ascertaining the size of the stock do not permit the gathering of scientific evidence and one has to rely on anecdotal evidence. Occasionally in good seasons snapper will return to the reefs in droves. However, one must worry about the year-to-year management and plan for drought seasons in order to maintain healthy fish stocks over a long period. That comment applies to shark fishing as much as to other forms of fishing.

The regulation does have a problem and is not perfect. Shamateurs are engaged in the industry. In holiday periods when people get only three or four weeks' leave many of those who visit the South Coast bring deep freezers with them. In the strict sense they are not shamateurs, as they do not sell their catch. Nevertheless, they freeze plastic bags full of fish and take them home for the rest of the year. That does have an impact on the fish stock. I have seen people put a mixture of fowl pellets and pilchards out from the back of boats and have the mix sitting there for hours. They catch considerable numbers of redfish and take them home. If an attack is to be made on this problem, it will be necessary to do so through education. In addition, more money must be allocated for research and the employment of more inspectors. Education is the most important question. All laws depend upon co-operation, good will and education. The regulation is no different. I support it.

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [8.26]: I am at a loss to understand why the honourable member for Port Stephens would move for disallowance of the regulation. He is reacting to the representations of a few people. To my knowledge and from correspondence I receive I believe there are two groups in New South Wales who disagree with the fishing bag limits: one is the New South Wales Recreational Fishing Federation, which is based on the Hunter River, and the other is a group at Gerringong. The rest of the fishermen in the State - amateurs and professionals - and any thinking persons agree with the bag limits that have been set.

The honourable member for Port Stephens said that bag limits were imposed originally to protect endangered species. Undoubtedly they were set to protect groper, which were being killed in great numbers by spear fishermen in the 1980s, when the first limits were introduced. In 1991 an extensive survey was done, and more than 25,000 copies of a discussion paper were distributed throughout the State. Replies were received from 25,450 anglers, who all agreed that the bag limits were reasonable. The bag limits that have been imposed are not unreasonable; in fact, in many ways they are too generous. One of the most common fish caught by the public is bream. The limit is 20 bream for each person; for a husband and wife the limit is 40 and for a family

of four it is 80. If that is not reasonable, I do not know what is. If anything, the bag limits are generous. In respect of dusky flathead, sand flathead and tiger flathead - and I can tell the difference between those species, as can most people - the limit is 20 because those fish are more prolific. For the species that are more endangered, the deepsea species such as blue-eyed bar cod, bass and groper, the limit is five, which is not unreasonable.

Mr Martin: They are not deepsea species.

Mr CAUSLEY: They are. I know that the honourable member was an agronomist who managed a fish research station, but I shall not go through what
Page 5424
happened at the research station while he was managing it. It did not thrive. The honourable member made great play about the various species of mulloway. What if there are different species of mulloway? If I caught five mulloway on an outing, I would think I had done well indeed, especially if each fisherman was permitted to catch five. The honourable member for Port Stephens probably will not believe this, but before I became involved in this rat race I was a fairly keen amateur fisherman. I assure him that if I could catch 20 bream in a day, I would feel pretty good about it. On many days when I went fishing I did not catch that many, and I was a fairly good fisherman.

The bag limits are not unreasonable. The honourable member mentioned that an amateur group on the North Coast of New South Wales is concerned about stocks of fish. People across the world are concerned about stocks of fish and their management. The problem is worldwide and, of course, Australia is worse off because we have a marine desert off the east coast of Australia and our fishing stocks are poor compared to world standards. It is not unreasonable to expect that there must be management in the fishery. It is dishonest for the honourable member for Port Stephens to say that no attempts at management have been made in the professional industry. He knows full well that for the past two to three years discussions have been taking place on the east coast trawl. He also knows full well that at present there are no provisions in the Fisheries Act for management plans.

Mr Martin: Where is the legislation?

Mr CAUSLEY: It is coming along, and the honourable member will be here to comment on it if the honourable member for Moorebank has not got him beforehand. The honourable member for Port Stephens will have to support the legislation because it is the right thing to do. It is no secret that at present a committee is dealing with property rights in the fishing industry.

Mr Martin: Freeholding.

Mr CAUSLEY: I do not know whether the honourable member has something wrong with him because he keeps on squeaking. We cannot understand what is wrong; perhaps he has a pain. There is no doubt that a committee is considering property rights, all designed to manage the fisheries. A couple of years ago there were 3,000 professional fishermen but the figure has fallen to 2,200. There is a freeze on licences, so it is fairly obvious that something is being done about the number of professional fishermen in the industry. Also, it is obvious that other management agreements are in place.

As the honourable member for Maitland rightly said, there is some concern about the by-catch of undersized soapy jewfish by trawlers in the Hunter, Hawkesbury and Clarence rivers. This year I have agreements with the Clarence River and the Hawkesbury River professional fishermen to trial fish excluders. The excluders will ensure that fewer jewfish will be caught in the nets. The professional fishing industry is an important industry in New South Wales because most people who want fish on their table or at a restaurant rely on professional fishermen to catch the fish. The honourable member is suggesting that it is all the fault of the professionals.

Mr Martin: I did not say that.

Mr CAUSLEY: You did. If you read *Hansard* tomorrow, you might remember. The honourable member for Port Stephens said the professionals were doing the damage. Management is being put in place for professional fishing as well as amateur fishing. The amateurs have told me that the bag limits are reasonable. Correspondence I have received reveals that a couple of groups are not happy with the bag limits. If that is so, they are not eating the fish themselves. That is part of the problem in New South Wales. As I said on another occasion, I previously owned a hotel and I know it was not the professionals who knocked on my backdoor. The sellers were probably related to the honourable member for Port Stephens. They had a tubful of fish and said, "Do you want to buy some fish?"

I do not understand the honourable member's arguments, nor do honourable members opposite. He is obviously out of step with the people of New South Wales and the fishing industry. This motion for disallowance of regulation is incredible. As was said earlier, perhaps the honourable member for Port Stephens is concerned about his position on the frontbench; he has to keep on squeaking and saying something because he feels threatened.

Mr Fraser: Craig Knowles.

Mr CAUSLEY: Yes. I think the honourable member for Moorebank is breathing down his neck. He obviously has a pretty good hold on the honourable member's seat. There are other limits in the marine recreational fishing laws on bait traps and fishing methods and any other reasonable measures to try to maintain marine species. For instance, an amateur can take two lobsters each day. That is very generous when one considers that the productions of rock lobsters in New South Wales has decreased from 600 tonnes to 200 tonnes. I do not think two lobsters a day for an amateur is unreasonable.

I give the honourable member for Maitland an assurance that I will keep a close watch on the new bag limits. I have a close relationship with the amateur industry and discussion groups in the industry. I am sure they will continue to keep me up to date on how the bag limits affect catches of amateur fishermen and how they are affecting the resource. When it was stated that amateur fishermen might not have an effect on the fishery, New South Wales Fisheries decided to check by way of accrual accounting to ascertain the exact catch. On the Richmond River, north of where I live, amateur fishermen were taking more than the professional fishermen. The Richmond River is not a large professional industry; it is not as big as the Clarence

River, but there are between 1.2 million to 1.7 million keen amateur fishermen in New South Wales. Therefore, they do have an effect, as the honourable member for South Coast said. There is no doubt that the bag limits help to protect the resources. [*Time expired*.]

Mr MARTIN (Port Stephens) [8.36], in reply: The Minister's comments, in particular his closing words, epitomise how far out of touch he is with the fishing industry. His group carried out a research project on the Richmond River, extrapolated it into the Clarence River and said the same figures would work. The Minister believed that because he initiated those measures. The Regulation Review Committee made the following recommendation:

> Committee to write to the Minister for Natural Resources in relation to the Fisheries and Oyster Farms Act 1935 - Regulation (Relating to bag limits, prohibited size fish and miscellaneous matters) requesting his advice on whether the regulation has been assessed as required under Schedule 1 of the Subordinate Legislation, especially in regard to consultation processes and cost benefit analysis. The Minister should also be requested to provide a copy of the Department's Management Plan on fish conservation. The alternative options raised in this Report to be passed to the Minister.

There is no such plan.

Mr Causley: On a point of order. It might help the honourable member for Port Stephens to know that the matter has been replied to and the Regulation Review Committee has approved it.

Mr SPEAKER: Order! There is no point of order.

Mr MARTIN: There is a range of issues in this debate. As I said at the outset, I speak because I have been in the industry. I also speak as the Opposition spokesperson. The challenge is there. The Government will have to justify all its statements when *Hansard* is read by the fishing fraternity. The Minister will boast about his wonderful speech, but all the people who have complained to me will read *Hansard*. I hope the honourable member for Maitland sends it to everyone who has complained to him. It will show who is in touch and who is not in touch. Disallowance of the regulations will restore the status quo. Regulations have been in place from 1990, so it will not affect bag limits already in place. In addition, the Opposition has said that the Minister should impose genuine bag limits by which people can abide. The bag limits must be realistic. A fisherman should not require a taxonomist to sit in his boat to identify different species or a lawyer - and God help us if a lawyer is needed - to interpret the laws.

The honourable member for Maitland, the honourable member for South Coast and other members who have spoken to this bill have said that there is a need for explanation, for education and for doing what has to be done so that the people understand. The Minister shrugs his shoulders and does not understand but speaks of shamateurs. Subsections (1A), (1B) and (1C) of section 41A of the Fisheries and Oyster Farms Act are very clear about illegal fish marketing. If the Minister had any go in him, he would have his enforcement staff police catches and would not need bag limits. As I said earlier, in his correspondence the Minister said it was a way of controlling the black market. The honourable member for South Coast spoke about sharing, which is what this industry is all about. In my opening remarks I made it clear that the Opposition believes in habitat protection, no loss of habitat, protection of breeding grounds and total exclusions, but allowing one group in and not another is always fraught with danger.

If the fish should not be taken for conservation or because they are threatened with extinction, they should not be taken at all. It is not about one group being able to take fish and another group not; the Minister, I and any right thinking person know that it is wrong to play one group against the other. I asked in the Estimates Committee whether there was enough money to pay the staff because there are more staff and less money for wages, yet the Government will implement regulations that will never be enforced because there is not enough money to pay the staff. This bill is about a Minister who just does not understand - a poor hapless, hopeless Minister. I mentioned the difference between a sand flathead and a tiger flathead.

Mr Causley: You do not know the difference.

Mr MARTIN: The honourable member for Murrumbidgee, the honourable member for Murwillumbah and the honourable member for Coffs Harbour would not know. They all heard the debate. Government members would not have a clue about estuary perch and bass because even the scientists have difficulty telling the difference. In the Minister's speech he travelled around the world for fourpence and spoke about management plans. It is now 12 months on the parliamentary calendar since he attempted to sneak into this Parliament a bill on management plans. The Opposition refused leave because it did not think there had been consultation, just as there has been no consultation on this measure.

Many fishing people have pointed out to me and to the honourable member for Maitland, who nods in agreement, that the reviews carried out by the Minister contain fixed figures because unexplained postcode areas appear in the final analysis. The Minister talks about fisheries property rights - deregulating at one end of the spectrum and offering a publicly owned resource for freehold at the other. He is not fit to be a Minister for fisheries because he does not understand fisheries or their purpose. The Minister spoke of fishermen taking two lobsters, but he was not game to mention that there will be a $5 tag on every lobster. The Minister has not worked out the correct management of a fish from the scientific data booklet *Legal Sizes and their use in Fisheries Management* published by the Bureau of Rural Resources because he has not read it. His research people have not read that data to inform him of its significance because he is a poor cow cocky from the Clarence River area who says he used to fish and own pubs. He is a disgrace.

Mr Causley: I inform the honourable member for Port Stephens that I am a cane farmer, not a cow cocky.

Mr MARTIN: I am sorry I did not call him a cane toad. The Minister spoke of being in a pub and people knocking on the backdoor to sell their catch. He has a duty to uphold the law in this State and should be ashamed of himself. The Minister knows what this piece of legislation is all about. Section 41 of the Act says that black marketing is controlled, but to control amateur fishing one must be fair dinkum. For this Parliament to be fair dinkum, it should ensure that people understand the laws. The people do not understand; they cannot tell the difference between a tarwhine and a bream, or a dusky flathead and a tiger flathead.

Mr SPEAKER: Order! I call the honourable member for Murwillumbah to order.

Mr MARTIN: They cannot tell the difference between the five species of mulloway. This proposed legislation is unfair. The Minister is not employing staff to educate the people and he is not spending the money because the budget shows he is cutting back - restriction signs are not being erected in essential areas. This issue is a disgrace. The Regulation Review Committee made recommendations, and the two members of that committee that sit opposite know that I am right and the Minister is wrong.

Mr SPEAKER: Order! I call the honourable member for Murrumbidgee to order.

Mr MARTIN: It is an indictment of a Minister who does not know, does not understand and is out of touch with the people of New South Wales. The sooner he vacates his position as Minister for fisheries, the better this State will be because to date he has done nothing more than preside over the ruination, the division and the wrecking of the fish marketing industry, amateur fishing and professional fishing. A few months ago a motion of no confidence in the Minister was proposed by the Commercial Fisheries Advisory Council. The Minister has not changed his ways. [*Time expired*.]

Motion negatived.

BUSINESS OF THE HOUSE

Withdrawal of Notice of Motion

Mr CRUICKSHANK (Murrumbidgee) [8.46]: I wish to withdraw my notice of motion relating to clauses 9 and 15 of the Radiation Control Regulation. I seek the leave of the House to make a brief statement as to my reasons.

Leave granted.

Mr CRUICKSHANK: At the instigation of the Minister I was able to hold discussions on 15th November with senior officers of the Environment Protection Authority and three members of the Radiation Advisory Council. Those discussions dealt with the issues that concerned the committee and that it highlighted in its twenty-second report. I received today an undertaking from the Minister to review these issues. On the basis of that undertaking and the discussions which preceded it, I withdraw my notice of motion.

BILLS RETURNED

The following bills were returned from the Legislative Council without amendment:

Gaming and Betting (Amendment) Bill
Public Finance and Audit (Budget) Bill

HOME PURCHASE ASSISTANCE AUTHORITY (AMENDMENT) BILL

Bill received and read a first time.

Second Reading

Mr SOURIS (Upper Hunter - Minister for Land and Water Conservation) [8.49]: I move:

That this bill be now read a second time.

As foreshadowed by the Treasurer in the Budget Speech, the Government intends to transfer the identified surplus funds of the Building Services Corporation, the Rental Bond Board and the Real Estate Services Council to the housing area. These will be available to meet costs associated with the HomeFund financial restructure, determinations of the HomeFund Commissioner and other housing purposes. The value of these surplus funds has been estimated to be $218 million. The Home Purchase Assistance Authority Act is to be amended to enable that authority to establish and administer a Housing Reserve Fund into which will be transferred the accumulated surplus funds of those three housing-related bodies. The Home Purchase Assistance Authority was constituted on 1st July, 1993, to facilitate the provision of assistance to home purchasers on low and moderate incomes and to manage existing and future home purchase assistance schemes, including the portfolio of loans under the HomeFund scheme. The objects of the Home Purchase Assistance Authority (Amendment) Bill are:

(a) to amend the Home Purchase Assistance Authority Act 1993 so as:

* to provide for the establishment of a Housing Reserve Fund out of which payments may be made in connection with housing assistance; and

* to enable the Minister to direct the transfer to the Home Purchase Assistance Authority of money and other assets held by the Building Services Corporation, the Rental Bond Board and the Real Estate Services Council; and

* to enable the Minister to waive or postpone the obligations to the Home Purchase Assistance Authority of the trustee of the Home Purchase Assistance Fund under certain loan agreements to which that trustee is party; and

(b) to amend the Building Services Corporation Act 1989 so as to enable payments to be made into the Housing Reserve Fund from the Building Services Corporation Account kept under that Act; and

(c) to amend the Landlord and Tenant (Rental Bonds) Act 1977 so as to enable payments to be made into the Housing Reserve Fund from the Rental Bond Interest Account kept under that Act; and

(d) to amend the Property, Stock and Business Agents Act 1941 so as to enable payments to be made into the Housing Reserve Fund from the Real Estate Services Council Statutory Interest Account and the Real Estate Services Council Compensation Fund kept under that Act.

Accumulated surplus funds have been identified in these three agencies within the housing portfolio, by Commissioner Dodd in respect of the Building Services Corporation, and by Commissioner Mant in respect of both the Rental Bond Board and the Real Estate Services Council. Commissioner John Mant, in his report of inquiry of 12th May, 1993, referred to the surplus fund held by the Rental Bond Board as being in an amount of about $100 million. Notwithstanding his view that the funds have been essentially accumulated from past activities, he was supportive of the Rental Bond Board's commitment to apply surplus income from managing

funds to government housing programs. At the time of his report he was of the view that the surplus should be paid into consolidated revenue. The Government is of the view that it will be more effective for the surplus to be combined with those of the other two agencies into a single fund for use within the housing portfolio.

In reporting on the Real Estate Services Council, Commissioner Mant identified surplus funds, being a minimum of $50 million in excess of its immediate needs and for which there is no specific purpose. He found, as he had in the review of the Rental Bond Board, that the Real Estate Services Council had large amounts of capital from past surpluses, which were far in excess of their day-to-day requirements or their contingent liabilities. He concluded that, as with the Rental Bond Board surplus, the surplus funds be treated as unclaimed moneys and be paid to consolidated revenue. As stated above, the Government believes the funds can better be utilised within the housing portfolio.

Commissioner Peter Dodd, in his inquiry into the Building Services Corporation dated 28th February, 1993, reported that according to the Building Services Corporation's actuary there is between $56 million and $70 million of assets of the Building Services Corporation that are not required to support the corporation's current insurance obligations. He noted that these assets have been accumulating over the past five years from operating surpluses in the licensing activities, plus the excess return on investment over and above that which was required for insurance purposes. He noted:

> I do not believe that the Government intended for the BSC to have a fund of the current magnitude.

His recommendation essentially was that the activities for which the resources had been accumulated, being education, research and training, would be better brought into the inner budget sector of the Government. The Government does not accept the view that surplus funds should be retained within the respective agencies to be used to support programs for the benefit of the client groups of those agencies. In the case of the Building Services Corporation, for example, careful consideration has been given to ensure that the transfer of surplus funds from the corporation does not in any way jeopardise the payments of future insurance claims or adversely affect the operations of the core activities of the corporation.

At present only those persons who entered into contracts after March 1990 have a right to have their insurance disputes determined by the Commercial Tribunal of New South Wales. In order to assist persons with insurance claim grievances against the former Builders Licensing Board or against the corporation prior to March 1990, it is intended to introduce legislation in the next session of Parliament. This legislation will provide access to those persons who entered into a building contract with a licence holder prior to the commencement of the Building Services Corporation Act in March 1990, to have their insurance disputes directed to the Commercial Tribunal of New South Wales for determination. This legislative amendment will provide all consumers with the same avenue of appeal.

Similarly, the Government does not accept the view that the surplus funds should be distributed among those client groups from whom these surpluses have historically arisen. As Commissioner Mant concluded in the case of the Rental Bond Board and the Real Estate Services Council, it would not be practical to trace the original contributors if the individual amounts are small. The surplus funds have had their origin in what in essence was a form of taxation imposed by the agencies involved and the amounts have grown as a result of compounding interest. As such, consolidated revenue has a legitimate claim on these surpluses, as indicated by Commissioner Mant. However, as suggested by Commissioner Mant, it is appropriate that the surpluses be transferred to housing-related purposes, subject to appropriate accountability.

In the 1993-94 Budget the Government foreshadowed the use of surplus funds to meet any costs associated with the HomeFund financial restructure, determinations of the HomeFund Commissioner and housing needs in general. These objectives can be best achieved by the establishment of the Housing Reserve Fund under the administration of the Home Purchase Assistance Authority. It is widely acknowledged that the Government is likely to incur substantial costs arising from the problems evident in the HomeFund program. These are expected to take the form of costs of restructuring the portfolio, costs of providing adequate capital in the Home Purchase Assistance Fund and costs of determinations by the HomeFund Commissioner.

At the same time, the Government recognises the need to make effective use of surplus funds which have been identified within the housing portfolio. The costs of repairing HomeFund must be funded by the community in one form or another. If the surplus funds are not applied to HomeFund, the burden will fall on other areas, and within the housing portfolio this would take the form of reduced provision of public housing. The Government firmly believes that
Page 5428
the transfer of the identified surpluses to the Housing Reserve Fund for the purposes outlined above is both an equitable and practical response to the clear need to address the problems within the housing program.

Debate adjourned on motion by Mr Knight.

ENVIRONMENTAL PLANNING AND ASSESSMENT (PART 5) AMENDMENT BILL

Second Reading

Mr SOURIS (Upper Hunter - Minister for Land and Water Conservation) [8.58]: I move:

That this bill be now read a second time.

The Environmental Planning and Assessment (Part 5) Amendment Bill 1993 represents an important government initiative. It introduces a process of arm's-length environmental assessment of State Government projects. The bill will give the Minister for Planning the decision-making role in relation to activities proposed by State government agencies, which are likely to have a significant effect on the environment. The amendment was foreshadowed by the Government when the Timber Industry (Interim Protection) Bill was being debated. Presently under that Act the Minister for Planning assesses and approves logging operations when an environmental impact statement is prepared. This scheme is continuing under this bill.

Presently, under part 5 of the Environmental Planning and Assessment Act, State government agencies, such as the Forestry Commission and the Roads and Traffic Authority, must examine and take into account the likely environmental impact of their proposed activities before proceeding with them. The decision as to whether or not an activity is to proceed rests with the agency. This is the case even when an activity is likely to have a significant effect on the environment and the agency must prepare or obtain an environmental impact statement. There is a public perception that the agency is unlikely to be sufficiently objective in making that decision. There is a lack of public confidence that the agency will give sufficient weight to environmental considerations in arriving at its decision.

The Environmental Planning and Assessment (Part 5) Amendment Bill will introduce greater objectivity into the decision-making process in relation to activities for which a State agency is the proponent. The bill does not apply to local government and county councils. Local government is directly elected and accountable to its constituents. County councils are made up of representatives elected by local government. For these reasons, such bodies are more directly accountable than State government agencies. The resource implications of including local councils and county councils cannot be justified given the accountability of local councils and the increasing reporting requirements under the recently introduced Local Government Act. Any activity for which a State government agency is the proponent and for which it prepares an environmental impact statement will not be able to be carried out unless the approval of the Minister for Planning has first been obtained.

The Minister will only grant such approval after considering the social, economic and environmental implications of the proposed activity. As the result of debate, an amendment to the bill is being proposed whereby an explicit obligation is introduced for the Minister for Planning, when approving an activity, to consider the environmental impact of that activity in accordance with the principles of section 111 of the Environmental Planning and Assessment Act. Section 111 imposes a duty on a State government agency to consider the environmental impact of a proposed activity by examining and taking into account, to the fullest

extent possible, all matters affecting or likely to affect the environment by reason of that activity. Such an amendment is in keeping with the spirit of the bill and only serves to specifically state a principle by which the Minister would have been guided in deciding whether to approve an activity.

The Minister will only make a decision after considering a report of the director of planning or a commissioner of inquiry. The agency's environmental impact statement and all public representations will be considered. All relevant issues will therefore have been comprehensively canvassed and considered before the Minister for Planning grants or refuses approval. The reports of the director and the decisions of the Minister for Planning will be made public. The bill in no way derogates from an agency's own environmental assessment obligations under part 5.

In keeping with the objectives of the bill, the Department of Planning will, within 12 months of the bill taking effect, produce "best practice environmental impact assessment guidelines". These guidelines will be issued to all State government agencies as well as to local government and county councils and will provide them with the criteria that they should consider in determining whether or not an environmental impact statement is required in relation to a proposed activity. These guidelines will be prepared in consultation with all relevant parties.

An agency will not be able to apply for the Minister for Planning's approval until it has considered the environmental impact statement, publicly exhibited it and taken into account the representations it receives from the public. The agency will have to comply with any conditions imposed by the Minister for Planning. The bill promotes a balanced approach to development decisions and the use of our State's resources. All relevant factors - environmental, social and economic - will be taken into account by the Minister for Planning. This bill has been the subject of appropriate public scrutiny and has attracted widespread support. I commend the bill.

Debate adjourned on motion by Mr Knowles.

Page 5429

PRISONS (AMENDMENT) BILL (No. 2)

SENTENCING (AMENDMENT) BILL (No. 2) Second Reading

Mr PHOTIOS (Ermington - Minister for Multicultural and Ethnic Affairs, and Minister Assisting the Minister for Justice) [9.3]: I move:

> That these bills be now read a second time.

The Prisons (Amendment) Bill (No. 2) and the Sentencing (Amendment) Bill (No. 2), as honourable members will be aware, have been the subject of considerable debate in another place. I suggest to honourable members that as there is nothing new in the presentation of the bills, it is most appropriate to refer to the second reading speech given in another place. On behalf of the Leader of the House, I should like to indicate that, with precedent, I intend to refer honourable members to the speech given by the Attorney General and Minister for Justice in another place with a view to determining any particular position in relation to the bill. If any member wants a copy of the quite considerable speech - 22 pages - I should be delighted to furnish it to him or her. But given that this matter has been debated in detail and that there is no change in this place, I propose to move forward with resolution on this issue.

Debate adjourned on motion by Dr Refshauge.

INDUSTRIAL RELATIONS (PUBLIC VEHICLES AND CARRIERS) AMENDMENT BILL

In Committee

Consideration of Legislative Council's amendments.

Schedule of amendments referred to in message of 10th November.

No. 1 Page 2, Schedule 1(2)(a), line 19. Omit "bicycle".

No. 2 Page 8, Schedule 1(4), line 3. Omit "bicycle".

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [9.7]: I move:

That the Committee agree to the Legislative Council's amendments.

Mr NAGLE (Auburn) [9.7]: The Opposition concurs with the amendments made by the upper House and notes the undertaking by the Minister for Education, Training and Youth Affairs in the Legislative Council that if bicycle riders become the subject of exploitation, the Government will examine accommodating, through legislation, a mechanism to protect them from exploitation. The Opposition does not oppose the amendments of the Legislative Council.

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [9.8]: I note the concurrence of the Opposition with the amendments of the Legislative Council. I note also the comments of the honourable member for Auburn regarding bicycle riders. I concur with the Minister for Education, Training and Youth Affairs in another place, and I assure honourable members that the Government will monitor the question of bicycles and will consider appropriate action, if it becomes necessary, at some later stage. I thank the Opposition for agreeing to the amendments.

Motion agreed to.

Legislative Council's amendments agreed to.

Resolution reported from Committee and report adopted.

Message

Message sent to the Legislative Council advising it that the Legislative Assembly agrees with the Legislative Council's amendments.

HEALTH CARE COMPLAINTS BILL

Second Reading

Debate resumed from 28th October.

Dr REFSHAUGE (Marrickville - Deputy Leader of the Opposition) [9.10]: Health care is a right. The capacity of citizens to complain against the inadequate provision of health services must be seen as a right of equal standing. In the words of Australia's leading expert on public health, Dr Sidney Sax, "Health care choices are made in an atmosphere of uncertainty". Dr Sax was referring to the fact that consumers are often uninformed about the options open to them, and they are uncertain about their effects. Consumers are also uncertain as to the avenues of redress when things go wrong in a hospital or in a provider's rooms. The primary reason for that is that the system - the health system, the complaints system and the courts - is weighted against the consumer. Let me quote from some advice given to doctors from another famous doctor:

> Perform these duties calmly and adroitly, concealing most things from the patient while you are attending him. Give necessary orders with cheerfulness and serenity, turning his attention away from what is being done to him; sometimes reprove sharply and emphatically, and sometimes comfort with solicitude and attention revealing nothing of the patient's future or present condition.

That advice was given to young doctors nearly 2,500 years ago by the Greek physician Hippocrates. That advice was wrong. In some doctors' surgeries that is being said today. It is still wrong. In 1984 the International Organisation of Consumer Unions, at its eleventh world congress, adopted a similar resolution urging health authorities and other concerned parties to uphold patients' dignity and rights as human beings, including the right to accurate information, the right to safety, the right to treatment and care, and the right to refuse treatment. Every day in a hospital, surgery or clinic around the State those rights are breached. Governments must protect those rights. A key task is to ensure those rights have legal backing. As the Consumers Health Forum of Australia has often said:

> In no jurisdiction in Australia have the Parliament or the court recognised in a comprehensive fashion the rights of health consumers. Even on those matters where there is law, it is often unclear and unambiguous, or differs between jurisdictions. For Australian consumers there is a considerable uncertainty and confusion as to where they stand in the law.

Whether a health right is legally recognised is a crucial issue. It is a matter of both symbolic and practical importance. A legal right confers upon the consumer authority to better control the provider-patient relationship. It places a positive duty on providers to ensure that consumers' rights are not breached. Most important, consumers are provided with legal remedies when things go wrong. It is instructive to examine the workload of the complaints unit to highlight the problems that clearly are occurring in the health care system in this State. New South Wales has the highest incidence of complaints against doctors than any other State. More than twice as many patients in New South Wales complain about their doctors than do patients in Victoria. During the last financial year the unit received nearly 1,230 complaints against all types of health practitioners. About 80 per cent of complaints were against doctors.

I take this opportunity to congratulate the head of the New South Wales complaints unit, Ms Merrilyn Walton, who arguably has one of the most difficult public sector jobs in this State. I also congratulate staff who work in that unit. Only 3 per cent of complaints were able to be resolved within the financial year. About another 60 per cent are still under investigation and, in about 20 per cent of cases, investigation was decided against. A further 12 per cent of cases were referred for conciliation. It is fair to say that the complaints unit has a task which is almost unmanageable. It is fair to say that investigations are taking too long. I understand that this matter may be dealt with in a report of the Ombudsman which is soon to be tabled. Some inappropriate decisions are being made by the complaints unit and some consumers, and probably health care providers, are being disadvantaged by the system.

I take this opportunity to cite a particular case to highlight how the current system, with its legal impediments and bureaucratic barriers, is weighted against the complainant. Honourable members will probably remember a story in the *Sydney Morning Herald* in March this year concerning a Sydney dentist, Tibor Vajda, who was then practising in Bondi Junction. He had been practising for decades when one day Mrs Magda Bardy walked into his surgery and allegedly recognised him as the murderer of her husband and the man who tortured her in a Hungarian concentration camp 40 years earlier. Mrs Bardy was beaten, interrogated, and eventually sent to the notorious political prison Kistarcsa where she was held for 2½ years. When she was released she discovered her husband was dead. Mrs Bardy complained to the complaints unit and presented evidence that Tibor Vajda was registered as a dentist in Australia in the 1950s based on fabricated evidence. The complaints unit investigated the matter. It found that the matter should be referred to the dental board for it to consider disciplinary action against Mr Vajda or the removal of his name from the register.

Mr Vajda's name was subsequently removed from the register, but not following the recommendation of the complaints unit. Fortunately, Mr Vajda, who clearly knew he was beaten and who was hiding in disgrace,

requested from the board his own deregistration. But the issue here is the inadequacy of the health care complaints system to deal with a situation where, for so many decades, a health care practitioner had been practising under false pretences. The problem with this case is that there was no power in the Dentists Act for the dental board to refer a complaint to the complaints unit for investigation, or for the director of the unit or the Director-General of Health to become involved in the proceedings as a nominal complainant. Mr Vajda may not practise as a dentist ever again in Australia. However, this man, who allegedly committed the serious offence of falsification of registration documents, will receive no further sanction. If the allegations against him are true he will not be fined or suffer any other penalty. So far as I am aware there is to be no further investigation of this most serious issue.

There are many problems with the State's complaints system. It is an issue of enormous proportions. That is why the Opposition seeks to have this bill referred to a legislation committee. Labor supports the thrust of the bill. Indeed, the establishment of the complaints unit as a statutory authority was a policy with which the Opposition went to the polls in 1991. However, there are significant problems with this bill. I take this opportunity to itemise some of those problems. There is no power to review a decision of the commission. In the courts system and the parliamentary system there are, almost by right, checks and balances built in, but not in this case. The commission has inordinate power. What if it makes a mistake? There is nowhere for a complainant to go. We need some sort of system of review. There is no compulsion on the part of a health care practitioner to participate in the complaints process. A doctor can simply ignore a request by the commission to furnish information. There must be compulsion on the provider to play fair.

There are concerns regarding the secrecy under which the commission operates. There is now an expectation that governments and their authorities will operate in a climate of openness. Information regarding investigations, the conciliation of complaints and documents relating to decisions should be available to complainants. Freedom of information legislation has been excluded from the complaints commission. This, quite rightly, has sparked widespread community concern. Clearly, people should be entitled to access information where it encroaches on their rights. I understand that the honourable member for Manly intends to move some amendments in relation to this issue. It is important for this House to recognise that at present there is

recourse to the Freedom of Information Act after a complaint has finally been dealt with. There is no such provision for the commission in the new Act. There is no reason for that provision not being in the Act.

It seems appropriate that upon completion of an investigation parties should be entitled to obtain relevant documentation. It is crucial that justice not only be done, but that it be seen to be done. The commission also should have an improved relationship with the court system. It should be entitled to investigate the frequency, type and nature of allegations of malpractice as they arise in legal proceedings. The coroner should be obliged to notify the commission where instances of malpractice are revealed during the coroner's proceedings. The Act should state that the commission be empowered to refer a matter to the Director of Public Prosecutions, and also that the commission has the power to investigate negligence on the part of the practitioner.

These issues should be dealt with by the legislation committee or, failing the establishment of that legislation committee, subject to amendments moved by the Opposition. These issues are not dealt with in the bill. I must concede that this new bill is a considerable improvement on the bill first presented to this House at the end of last year. In fact, many changes are a direct result of amendments moved by the Opposition at that time. These amendments were opposed by the Government. It was only after considerable Opposition pressure and the hard work and dedication of many health care consumer organisations that we have now been presented with a much fairer piece of legislation. However, I am concerned that the bill does not address the wider issues of the inadequacies of our medical redress system generally.

It has been said to me on numerous occasions during the consultation process that the Opposition has undertaken on this issue in the past few months that the rich have a way of dealing with their problems. They can go to the court system and sue a doctor for all he or she is worth. However, for a battler, someone who cannot afford to brief a barrister for one day, let alone two weeks, the only hope is the health care complaints

unit. If that does not work, that is the end of the road. If a person has gone through the experience of two weeks of deep sleep therapy at the hands of Doctors Gill and Herron, or has needlessly lost a 10-year-old son in a casualty unit, the road looks bleak.

It is not just a question of differences between rich health consumers and poor health consumers; the question is the enormous gap in the power balance between consumers and health providers. In general, health consumers have not had the influence over legislative and administrative action that health providers have exercised. It is no surprise that those with the most resources and power in the community - through wealth, status, contacts or the ability to organise - have a greater influence on the law than the less powerful. Governments must redress the wider issue of the complaints process generally. I wish to refer to some of the systems available to health consumers. Civil actions can be initiated in the courts, principally for negligence. According to one estimate, about 150 such actions are commenced each year in Australia. Very few of these even reach the courts.

Consumer remedies are available under various trade practices and fair trading legislation. These include actions for misleading, deceptive or unconscionable conduct. Despite reforms over recent decades, problems still persist in this area and these avenues are rarely available to health care consumers. In certain appropriate circumstances, complainants can go to anti-discrimination bodies, but again in limited circumstances. There are, of course, coronial courts which are a legal mechanism for dealing with unnatural, suspicious or violent deaths. As I have outlined, these procedures all have serious limitations.

The Consumers Health Forum has identified what it describes as an extraordinary array of barriers to pursuing redress: the lack of information about where and how to complain; the fear of complaining, because it might adversely affect the quality of their future services; lack of faith in the bodies to whom complaints were made owing to their lack of independence; the problem of the expense in time and money of making complaints; the high cost of litigation; the limited availability of legal aid; the prospects of having to pay for the defendant's costs if unsuccessful; the problem of restrictive limitation periods for the commencement of legal action; the difficulty of obtaining access to health records to determine whether there is a case worth pursuing; the emotional, physical and intellectual costs to the person and his family of the trauma of court proceedings; the substantial delays in higher court proceedings; the reticence of medical defence unions to allow cases to go to court - so the law itself is slow to develop; the inefficiencies of the legal profession and courts administration; and the inadequacies of existing legal rules, such as those in relation to class or group actions.

What is required is a review of this legislation. This is one of the most important pieces of legislation this Government has so far introduced. It cannot be rushed through this Parliament in its dying days. A legislation committee is needed to investigate this bill in the context of New South Wales complaints procedures. The whole issue of health complaints procedures is one that is begging law reform. Governments, both Federal and State, should examine the legislative structure from the courts through to their respective administrative bodies.

A number of options should be considered nationally or statewide. These include a system of no-fault compensation, and on this issue I await the Federal Government's report. A statutory reform of common law negligence proceedings should be considered, and also the need to update administrative review procedures. I do not necessarily advocate any one of these strategies, but I strongly support an

examination of the issues with a view to reform. I believe change in this area is crucial to improve the health system as a whole and to protect the civil rights of the community.

Proposals to reform laws on this issue usually meet with seemingly impenetrable barriers. The typical reaction is that they are an unnecessary interference in the doctor-patient relationship. Still prevalent in this community is the "Trust me, I am a doctor" attitude. Consumers are dismissed as non-experts. These arguments must be rejected out of hand. In a democratic community, laws governing health care complaints procedures should be consistent with principles of social justice. These principles focus upon adequate information, participation in decision-making and equity of access. However, reforms in complaints procedure must not be supported merely because they are good in principle. There are strong practical reasons to do so.

Medical research suggests people simply get better faster if they are better informed, know what their options are, and have their rights protected. The Labor Party believes that the effective mechanisms to deal with health care complaints are a mark of an open, socially just community. A community which fails to protect the legal and ethical rights of its health care consumers is a community that is far short of true democracy.

Mr GLACHAN (Albury) [9.27]: In January 1984 the New South Wales medical complaints unit was established within the Department of Health because it was recognised then, as it is now, that people needed to have access to a body such as this so that they could make complaints when they thought it was necessary. Every State in Australia has arrangements similar to this to give medical consumers the opportunity to make complaints if they feel the need to do so. I think the Northern Territory is the only place in Australia where that access is not as readily available as it is elsewhere. In 1987 suggestions began to be made that the unit really needed a separate legislative base, and people were of the view that it should be independent of the Department of Health. In 1988 consultants carried out a review of the unit and of the work it was doing. At that time people wanted its powers extended, others wanted them curtailed, and others wanted the unit disbanded altogether.

It is important to note that the Health Care Complaints Bill introduced in 1992 was debated in this House. The debate was adjourned in November of that year as a number of questions had been raised about certain aspects of the bill, especially by consumer groups who requested that their major concerns be addressed. Following the adjournment of the debate, much consultation took place with consumer groups. Up to 70 professional and consumer groups were asked to comment on amendments to the bill that they thought were necessary. Generally speaking, most of the important consumer groups are happy with the bill in its present form, though I admit that several groups have sought further safeguards for consumers than are provided for in the proposed legislation. Basically 11 peak groups support the bill. They include: the Australian Consumers Association, Council for Intellectual Disability, Council on the Ageing, Public Interest Advocacy Centre, AIDS Council of New South Wales, Mental Health Co-ordinating Council, the Australian Medical Association, Medical Services Committee, Nurses Association, Council of Social Service New South Wales and New South Wales Disability Safeguards Coalition.

The Deputy Leader of the Opposition said that the bill should be referred to a legislation committee and that there should be further delay so that all the issues can be re-examined in detail. That has already been done over a long period. A good deal of consultation has occurred and a great number and variety of professional groups - at least 70 - are pleased with the way the bill is framed. The time has come for action to be taken on this matter and for the bill to be passed. The time for dilly-dallying is over. We must get on with the job and ensure that the bill passes through the House now. I should bring to the attention of the House matters raised by the consumer groups. As recently as 3rd November in a media release the Australian Consumers Association said:

> The Bill will set up a Complaints Commission, a statutory body independent of the Health Department and answerable to a Joint Parliamentary Committee.
>
> The Consumers Association supports the Bill and hopes that Parliament will allow its passage during its current session.

The association went on to say:

> When the Minister originally tabled the Bill in November last year, consumer organisations across the board rejected it. But in the last 12 months significant changes have been made. We wanted it taken back to the drawing board and this has paid off because in the new Bill the independence and accountability of the proposed Commission is guaranteed.

The AIDS Council of New South Wales, in a media release also dated 3rd November, said:

> People with HIV/AIDS simply cannot afford further delays in establishing the Complaints Commission proposed in the Bill.

It continued:

> HIV/AIDS continues to generate a steady stream of complaints about health services and the proposed Commission will be a much more effective system than the Complaints Unit structure we have at present.

In a letter to the then Director-General of Health, Dr Bernie Amos, the Mental Health Co-ordinating Council wrote:

> We have been closely involved with the process of community consultation on the proposed Health Care Complaints Bill, and would like to advise you of our position regarding the legislation.

The council in its letter proceeded:

> The Mental Health Co-ordinating Council is fully supportive of the Bill going through in this session. We believe the Bill will establish quality, independent mechanisms for complaints and review of New South Wales Health services.

Page 5433

The Public Interest Advocacy Centre, in a letter to the Minister dated 29th September, said, among other things:

> As you are aware, we have had many detailed discussions with officers of your Department about the Bill since it was withdrawn from Parliament last year. We believe that significant changes have been made in a number of areas, in particular in areas which are fundamental to a proper health complaints system.

It lists the changes as being the independence of the commission, accountability of the commission, access to the complaints system by health consumers and capacity for the commission to report on systemic problems arising from individual complaints. The letter proceeds:

> It was appropriate that the original Bill was withdrawn, but it has now been almost a year since this occurred. We submit that it is imperative for this matter to be resolved as quickly as possible by approval of the Bill by Cabinet, and its passage through Parliament.

Finally I should comment on a letter written to the Minister on 26th October by the Medical Services Committee which says:

> All the significant concerns of the Committee have been addressed satisfactorily and it is considered that this legislation in conjunction with the Mental Health Act, the Quality Assurance Legislation and the complementary Registration Acts will provide a basis for high and improving standards of health care and of professional responsibility among all categories of health care providers.

Those peak consumer groups are all in favour of the bill in its present form. They agree that great changes have been made and that the bill is now satisfactory. Most importantly, they want it to be dealt with now so that it can be passed in this session of the Parliament. The bill will establish the Health Care Complaints Commission and the health conciliation registry. The aim is to investigate, conciliate and prosecute complaints against practitioners and to investigate problems with health services. The commission will replace the existing health care complaints unit, but I should emphasise that these bodies will be independent. That is an important point: their independence will be guaranteed.

Anyone in the State at any time will be able to make a complaint. One of the requirements will be that complaints be in writing. However, the bill provides that staff must assist complainants in formulating complaints, putting them into writing and having them lodged. That will be of tremendous assistance to those who might have difficulty in that regard. The bill proposes to set up a parliamentary committee to oversee the commission, which will be accountable to that committee and to the Office of the Ombudsman. There will be adequate oversighting of the way complaints are dealt with. That is fair and reasonable, and it will give much comfort to consumers who seek to complain about the way they have been dealt with by practitioners or institutions providing medical services.

An annual report must be published. In addition, anyone who has a complaint dealt with and is not

satisfied with the result will be able to ask the commission to review the decision. The bill requires also that the Minister review the Act after three years and then report to both Houses of Parliament on the effectiveness of the measures. That will be another important check. A requirement under the 1993 Medicare agreement is that an independent health complaints arrangement be established in the State. It is important for that to be done this year. The commissioner will be appointed by His Excellency the Governor for a five-year term. The commissioner may serve 10 years, but no more than that.

The bill includes provisions that will enable the commissioner to be removed from office under section 42Q of the Public Sector Management Act. I believe that the bill includes adequate safeguards for the working of the commission and that consumers will be well protected. I submit that consumers are of a similar view, are totally supportive of the bill and are anxious for it to be brought into effect as soon as possible. Because of the safeguards and the urgency of the matter, there is no need for the bill to be once more referred to a legislation committee. That would be a waste of time. Consumers are happy; and if that is so, the Parliament should be happy too. I strongly support the bill.

Mr ROGAN (East Hills) [9.40]: The closing remark of the honourable member for Albury referred to consumers being happy with this legislation. I do not know where the honourable member has received his information, other than through the normal handout that is provided by the department and by the Minister, but I can assure him and the Government that consumers are not happy. I shall elaborate on that and demonstrate why the various organisations are not happy. I shall name the organisations. One of the great faults of this Government and its predecessor, the Greiner Government, is their total failure to consult. I would dearly like the Minister in reply to tell us the genuine community groups with which he has consulted. I shall inform the House of the various groups that represent half a million medical consumers of this State who are not happy with this legislation and who have no confidence in it.

Let there be no doubt that this bill does not enjoy the confidence or support of the medical consumers of this State. It has been prepared by the health bureaucracy for the benefit of that bureaucracy. For the Minister to become a captive of his department and ignore the genuine concern of the community is a total abrogation of his responsibility as a Minister of the Crown towards consumers of health services in New South Wales. I speak with some experience because tomorrow I celebrate 20 years as a member of this Parliament. I can remember being in government and battling the bureaucracy, battling my own Ministers at the time to try to bring to the attention of the public the awful experience of those who were victims of Chelmsford Private Hospital. It was only after a royal commission was established that the truth came out in the public arena and we became aware of the dreadful abuse that was allowed by the bureaucracy and those paid to exercise responsibility, but who did not do so.

Page 5434

The victims of Chelmsford looked to the Parliament and the Government to introduce legislation to protect those in the future who may follow in their footsteps. Sadly and regrettably they will not get it through this legislation. Those people recall the doctors in the public health system who had a responsibility to check on the drug regime given to patients at Chelmsford Private Hospital, some of whom were rendered unconscious for upwards of two weeks and, in many instances, were carried off to hospital with pneumonia - and many to the morgue. When the bill was first introduced, the Minister in his second reading speech referred to the Chelmsford royal commission and experiences at Chelmsford. He indicated that the measure would address those concerns. Sadly, that is not the case. The Minister in his speech on 16th September, 1992, said:

> The decision to establish the Health Care Complaints Commission results from the findings of the Royal Commission into Deep Sleep Therapy in relation to the Complaints Unit.

One would think, because of the findings of that royal commission and as a result of the work of the Chelmsford Victims Action Group in establishing the group, it would have been consulted. It is logical to assume that, but the only group consulted extensively during the preparation of this legislation was the Australian Medical Association - the association representing doctors. Consumer groups were not consulted, but the doctors were.

This bill is for the benefit of the bureaucracy and has been welcomed by the doctors. I assume that if there had been any real oversight in this legislation relating to the medical profession, doctors would have expressed some concern about it, but they have embraced this legislation. When this bill was introduced on 28th October, the Minister in his second reading speech referred to consumer groups that supported this legislation. I have news for the Minister. He would be aware by now that a number of these consumer groups do not support the legislation and an increasing number that have ascertained the ramifications and implications of the legislation are withdrawing their support.

The Minister referred to the Australian Consumers Association. Mr Barry Hart from the Chelmsford Victims Action Group rang the association and said, "I would like to talk to you about this legislation to put to you some of the concerns of the Chelmsford Victims Action Group and our worries about this legislation". The response of the Australian Consumers Association was, "Do not talk to us because we are just a peak organisation. We do not really represent consumers. We do not really know all that much about this legislation". Yet, this is one of the bodies referred to in the Minister's second reading speech as supporting this legislation. When the Association of Relatives and Friends of the Mentally Ill found out about the legislation it was horrified. I attended public meetings - and not one representative from the Government attended either major public meeting held to discuss this legislation - and I heard the concerns of this group and many other groups.

I could run through all these groups but time does not permit me to do so. Suffice it to say such groups include the New South Wales Council of Senior Citizens Association, the Retired Teachers Association, retired union members of various organisations, the Voice of the Elderly, the Association for Mental Health - 48 groups, mainly consumers - the Association for Self Help Organisations and the Vietnam Veterans Association of Australia. Some might ask what their interest is in this. It is simply that since the State has assumed responsibility for what was formerly Concord Repatriation Hospital, these Vietnam veterans have a direct interest in the delivery of health care in this State and they seek safeguards for their members to ensure that they are not victims of the system. They are groups like the Federation of Italian Migrant Workers, Association for Improvements in Maternity Services, the Chelmsford Victims Action Group, the Medical Consumers Association, the Northern Beaches Mental Health Support Group and many others. A spokesperson for the Minister was reported in the *Manly Daily* of 19th October regarding this legislation as follows:

> He was unsure when consultation with the community would begin but assured concerned groups there would be a comprehensive consultation process much like the one undertaken when the bill was first drafted.

I assure the Minister and the Government that that pledge is now received with a hollow laugh by those groups. The Opposition and all community organisations, many of which I have just referred to, are concerned with many aspects of this proposed legislation. I should like to refer to some of those concerns. Mr Tony Humphreys, Chairman of the Association for Mental Health, commented that a very broad cross-section of consumer representation at one of the public meetings showed the strength of consumer concern. He said, "The bill cuts across the fundamentals of human rights as expressed in the Burdekin report". Mr Ray Fulton, Secretary of the New South Wales branch of the Vietnam Veterans Association, said that the Government bill was a disgrace. Sally Willington, President of the Association for Improvements in Maternity Services said:

> The lack of public consultation is a disgrace in a so-called democracy. If this bill is passed as it stands, members of my Association will have no redress when they need to make a complaint.

[*Extension of time agreed to*.]

I should like to hear the Minister in reply indicate why this piece of legislation contains no provision for freedom of information. The removal of that provision causes a deal of concern. The honourable member for Londonderry will refer to this measure in his speech. It was only through the operation of the Freedom of Information Act that one of his constituents was able to ascertain exactly what appeared in the medical report about swabs left inside a woman's stomach after an operation.

The bill provides for imprisonment and fines for persons who disclose information relating to the investigation of complaints. Why must we have a

sole commissioner for this complaints unit? Why not have a number of commissioners? Irrespective of who the commissioner may be - I have no comment in relation to the competency or capacity of the current commissioner - other commissioners will follow. Therefore, a number of commissioners will safeguard consumer representation at that level of oversighting, which is absolutely necessary if this body is to perform fully in the public interest.

There is no codification for priority investigations even though Department of Health lawyers in the Chelmsford royal commission argued that they failed to act on complaints of malpractice, experimentation and patient abuse at Chelmsford because there was no legislative obligation for the department to investigate the complaints. This proposed legislation has been designed and put together for the benefit of the complaints unit. The bill contains provisions to benefit the commission but not the consumer.

Why will the commissioner be appointed for a term of 10 years? I have been a member of this Parliament for many years and I have never known an appointment for such an extensive length of time. It is an extraordinarily lengthy time for such an important appointment. The unit is not able to make recommendations about medical practice despite the fact that the Medicare agreement states that the commission has to make recommendations on the improvement of hospital services. I should like to deal briefly with the process of lodging complaints. The proposed legislation requires that a statutory declaration be lodged. No provision is made for a person to lodge a complaint after the period of two years has elapsed, despite the fact that proposed section 138 of the Legal Profession Reform Bill, which the House is debating, states:

> (2) However, the Commissioner may accept a complaint made after that time if:
>
> (a) the Commissioner is satisfied that it is just and fair to do so having regard to the delay and the reason for the delay; or
>
> (b) the Commissioner is satisfied that the complaint concerns an allegation of professional misconduct and that it is necessary in the public interest to investigate the complaint.

Why cannot a similar provision be incorporated in this legislation? In Victoria a person who makes a complaint to the commission must first put it in writing. But the Victorian legislation allows for a complaint to be made either orally or in writing though it must be confirmed in writing unless good reason is given to the commissioner why that is not possible. The Ombudsman has expressed concern about the bill. It is interesting to note that it is being pushed through on the eve of a report of the Ombudsman to the Parliament that will strongly criticise the complaints unit.

Why should we not delay this legislation until we know what the Ombudsman says? Surely this Parliament can benefit from the valuable input of the Ombudsman. I return to my first point. In five years' time, when the Minister is no longer the Minister, and indeed may not be a member of this Parliament, issues will arise if the legislation goes through in this form. If the concerns of the community groups eventuate, that is, that the protection will not be available, I foreshadow that the Minister will adopt the fall-back position of all Ministers once they are out of office and out of Parliament when confronted with the inadequacies of legislation they put through. He will say that the damned bureaucracy put the legislation forward and that he should have looked at it in more detail. The Opposition is giving the Minister and the community that opportunity now by having this bill referred to a legislation committee.

The Minister will have the opportunity to consider the proposed legislation in more detail and community groups will also have that same opportunity. Surely that is what this place is about. The community will be able to provide input to the committee. Surely that is what this is all about, not just putting through legislation, despite the opposition and concerns of the community. This legislation does not enjoy the public confidence it should enjoy. That has been demonstrated in resolutions carried at representative gatherings of consumer groups representing, as I said, something like half a million consumer groups. [*Time expired*.]

Mr O'DOHERTY (Ku-ring-gai) [10.0]: For the benefit of the honourable member for East Hills, I will refer briefly to a news release, an official statement issued by the Australian Consumers Association on 3rd November. It states:

> The NSW Health Care Complaints Bill has been tabled in Parliament and it spells good news for NSW consumers.
>
> The bill will set up a Complaints Commission . . .
>
> We are not only pleased with the Bill because it will give NSW a health complaints system which is in the interests of health consumers, we are also satisfied that Minister Phillips has listened to consumer and community groups in a very fruitful consultation exercise.

The honourable member for East Hills seems to be operating on a different plane so far as this legislation is concerned. He referred to a number of groups, small groups, perhaps groups on the fringe of the medical debate, though they may be involved in other debates -

Mr Rogan: Representing half a million consumers.

Mr O'DOHERTY: The honourable member for East Hills says they represent half a million consumers. How many consumers does the Australian Consumers Association represent? Is it three million, four million, five million, 10 million or 15 million consumers? By the honourable member's own mouth, the Australian Consumers Association is the peak organisation, and it approves of the bill. It says that it is good news. I will come to the question of the half a million members mentioned by the honourable member. He has double counted. It is like the old trick of trying to add up the number of things one does in a day and concluding that only

three people work in Australia, and one of them would not be the honourable member for East Hills, judging from this bill. He has double counted his figures. He has people represented by groups that approve of the bill counted in with those who do not approve of it. The reality is that some people belong to two groups, and that is how he arrived at the figure of half a million people.

However, this is a side issue. The fact remains that 70 groups were consulted and the vast majority of them support the bill. I suggest that when the views are sought of 70 groups, no matter what the issue, of course there will be some who disagree on some points. However, in this case the vast majority of people supported the bill. A limited number are now trying to hijack that process at the eleventh hour when New South Wales has achieved the most significant reform in this area. That limited number of people has tried to undermine the process. They are simply telling lies. What they say is either not true, and known to them to be untrue, or is demonstrably not true but they do not understand it. It is a shame to get to this stage of such important reform and then to have lies and misstatements perpetrated about the legislation. The honourable member for East Hills, who tomorrow celebrates 20 years in this place, should know better.

One of the Opposition's concerns about the bill is that the commission will not be able to prosecute or find legal negligence and award compensation based on that. The Government says that the court system is there for that purpose. The commission has the task of investigating complaints brought by medical consumers. It must investigate those specific complaints or widespread complaints of systemic problems, in order to ensure that practitioners who are not acting in the interests of public health are removed from the system so that they no longer represent a danger to medical consumers. That will be the job of the commission set up by this bill. The job of finding legal fault may cover some of the same ground, but it is the province of the legal system. Any of the groups that have complained to the honourable member or to the Minister, who listened, listened and listened again -

Mr Rogan: But took no notice.

Mr O'DOHERTY: The Minister took lots of notice. Many times the Minister told those groups that they can go to the courts at any time and pursue their own legal rights, independently of anything that the health system itself is doing. Those groups have the right, as I do and any member does, to use the court system to those ends, to have compensation or damages awarded or even to have legal negligence established, if appropriate. The question of establishing legal negligence through the court system is different from establishing medical negligence under the provisions of this bill. It might cover the same facts but the point of the commission is to investigate the treatment of health consumers and to remove from the system doctors who are not fit to be practising - and it does that extremely well.

The honourable member for East Hills referred to a two-year delay about which some groups have been concerned, and whether there is a two-year limit on filing a statutory declaration that is necessary to commence proceedings. The honourable member would probably remember that part of the commission's role is to assist people in making their complaints, and that is a major step forward. It is extremely important to the mental health groups that consulted with me and the Minister. It is one of the hundreds of significant improvements in this bill. As to the two-year delay, the commission has full power to investigate matters that occurred more than two years ago - out of time, as the honourable member would say.

Clause 27(1)(f), at page 12 of the bill, states that a two-year delay in making a complaint is one reason that the commission may consider not investigating, with the emphasis on the word may. However, if the commission considers such cases to be serious enough it can still investigate them. I do not know why the honourable member mentioned this because it is similar to the provisions contained in the legal bill to which he referred. Consumers have been at the heart of this bill. The benefits for consumers are at the heart of what the Minister has achieved and will continue to achieve in the New South Wales health system. Consumers are the important focus of the health system under this Minister and that is something that should never be denied and should never be forgotten.

The commission to be established by this bill is consumer oriented all the way. Consumers have driven the process. Consumers are at the heart of the process. The Chelmsford case was one of the reasons that the Government moved to this process. To suggest otherwise is simply laughable. The present complaints unit that is to be changed by these amendments operates under powers delegated by the Director-General of the Department of Health. That is to be replaced with an independent, statutory body. It has powers, duties and responsibilities clearly defined by statute. It will be accessible, accountable, consumer oriented and consumer driven. In no way will it be bureaucrat driven, as was suggested by the honourable member for East Hills. It is deliberately at arm's-length from that process.

This bill is a step forward and an important improvement on existing structures. The bill establishes new provisions that will make the commission more effective than the present body. For example, a conciliation registry will be established to investigate, conciliate and prosecute complaints against health practitioners and to investigate problems in the delivery of health services. The two bodies to be established - the commission and the conciliatory body - are consumer driven and aimed at getting to the bottom of the complaint, solving it if possible. If serious matters are raised as part of that process, and if there is a need to remove a medical practitioner from practice or to take other serious steps, the bill provides for that to be done by reference to registration boards and other procedures.

The appropriate safeguards are in place to ensure that this is a body that not only listens but also has teeth and can act.

One of the other objections raised by an earlier speaker concerned oral and written complaints. Complaints may be made to the commission in writing or orally. This is an important point for some of the mental health advisory groups to whom I spoke during the preparation of the bill. The commission requires the complaint to be made in writing before it is investigated, but a person who may have trouble lodging a written complaint can complain orally to the commission. The commission will then assist the complainant to draw up his or her complaint to expedite it through the system. People who need help in making that complaint will be given that help, the complaint will be made and the complaint will be dealt with. Once again, the commission

is consumer oriented.

By comparison, the Victorian commission does not prosecute as New South Wales will. It has no requirement for complaints to be made in writing. That deals with one of the questions raised by the honourable member for Londonderry and his earlier concerns about oral and written complaints. I am concerned, following some of the misstatements, some of the untruths and, perhaps, some of the direct lies in this debate, that people like the honourable member for Londonderry and the honourable member for East Hills and some of the groups they mentioned have the wrong end of the stick. Make no mistake, this is an important strengthening of an important step forward - the implementation of the complaints unit.

Problems have been found with the complaints unit and some of its structures. For a long time this Minister has been concerned to rectify those faults, to provide the next generation with a complaints process in the health system aimed at consumers. That is what started consultation. Seventy groups consulted with the Public Interest Advocacy Centre undertaking consultation on behalf of those groups, completely at arm's-length from the Government and the Minister. It is the Minister who has real honesty and integrity about the process, about getting the right outcome, who is prepared to hand over a consultation process to a group completely at arm's-length from his office. That is what Minister Phillips has done. The Public Interest Advocacy Centre took care of the consultation from start to finish. The consumer groups by and large - vastly the majority - are in favour of the changes.

It is unfortunate that we get to the eleventh hour only to have honourable members throw misstatements around and cast doubt on an important step forward in the accountability of the medical profession. I certainly hope that the amendment foreshadowed by the shadow minister for health is not part of the bill. I will vote against it. It is a delay; it is unnecessary; it is simply playing political games. When the bill finally passes through this House, we will have a consumer-oriented body, a place to which we can take a complaint about a medical practitioner. The primary function of the commission will be to assist the complainant to make the complaint, to deal with the complaint and to find the necessary answers to ensure that the problem does not happen again, if a complaint is proved. It is a major step forward. It is aimed at consumers. I pay tribute to the role the Minister has played, not only in this issue, but in so many other issues in driving the medical health system into the 1990s as a consumer-oriented, client-oriented body. I support the bill.

Mr MILLS (Wallsend) [10.14]: It is Labor Party policy to establish a health complaints commission. I hope the Government remembers that. In the mid-1980s the Labor Government set up the current Complaints Unit. From our experience, from the experience of the unit over the past nine years, from advances in community attitudes and from an acknowledged need to advance health consumers' rights, the time has come - and the Opposition acknowledges that - to work towards setting up an independent body to deal with health complaints. It is the duty of this Parliament to determine the way in which that body operates. But as the Deputy Leader of the Opposition and the honourable member for East Hills have outlined, the Australian Labor Party has grave concerns about the way in which the Government has proposed in the bill to determine the way in which that body will operate.

I believe that the bill will set up a complaints commission that will not serve the interests of health users - the health consumers. The bill has been subjected to many influences and needs, which should have meant that a very different kind of bill was presented to the Parliament. Public sector health rights have been discussed widely around Australia and other countries in recent years. The Medicare agreements have developed requirements that have not been met in the bill. It is important to look at some of those requirements. The public patients' hospital charter is the basis of the requirements of the Medicare agreements. I understand that the States agreed with the Federal Government to develop a public patients' hospital charter, including a time frame for when it should be distributed to the public. The Minister owes it to the Parliament to state in his reply when that charter is coming.

The bill should have contained a preamble setting out patient rights. The Government must be a long way down the road towards having those patient rights written out. Part of the Medicare agreements was that the public patients' hospital charter had to set out the process by which people could lodge complaints about public

hospital services and how the complaints could be heard by an independent body. The State Government agreed to establish a complaints body to resolve complaints made by eligible people about public hospital services. The State Government agreed that the complaints body should be independent of the State's hospitals and the Department of Health. It agreed that it should be given powers that would allow it to investigate, conciliate and adjudicate on complaints brought to it and that it should be given a role in recommending improvements in the delivery of
Page 5438
hospital services for which the Federal Government was providing finance under the Medicare agreements.

It was agreed that there should be a timetable and, most particularly, as part of the Medicare agreements, that the complaints body should not affect rights that a person may have at common law. That part of the Medicare agreements is not met because of exemptions to the Freedom of Information Act and the Ombudsman Act contained in the bill. I said that widespread discussion of health care complaints-type legislation had occurred. One of my major concerns is that the philosophy behind the way in which the bill has been presented is flawed. I should like to give two examples from other Legislatures where the job has been done differently and, in my view, done very much better in terms of health rights because the bill contains a code of what health rights are.

As the philosophy of this is based around the receipt of a complaint, there is no code of behaviour by the provider of health services against which a complaint can be tested. That is a serious flaw in the legislation compared with what, for example, Queensland has done - and I will discuss the New Zealand legislation in a moment. In the Queensland Health Rights Commission Act the objectives of the Act were stated:

(a) to provide for oversight, review and improvement of health services by establishing an accessible, independent facility that will -

(i) preserve and promote health rights; and

(ii) receive and resolve health service complaints; and

(iii) enable users and providers to contribute to the review and improvement of health services; and

(iv) provide education and advice in relation to health rights and responsibilities and the resolution of complaints about health services, whether or not made under this Act; and

(v) assist users and providers to resolve health services complaints; and

(b) to provide for the development of a Code of Health Rights and Responsibilities;

The bill goes on to describe the Queensland commissioner's functions. These are listed in section 10 of the bill as follows:

(a) to identify and review issues arising out of health service complaints; and

(b) to suggest ways of improving health services and of preserving and increasing health rights; and

(c) to provide information, education and advice in relation to -

(i) health rights and responsibilities; and

(ii) procedures for resolving health service complaints; and

(d) to receive, assess and resolve health service complaints; and

(e) to encourage and assist users to resolve health service complaints directly with providers; and

(f) to assist providers to develop procedures to effectively resolve health service complaints; and

(g) to conciliate or investigate health service complaints;

The Queensland bill then specifies a period of two years within which the commissioner must come back to the Minister with a code of health rights. The functions of the commissioner in New Zealand's Health Commissioner Bill 1991 are as follows:

(a) As a first priority, to prepare a Code of Health Consumer's Rights:

(b) To keep the Code of Health Consumers' Rights under review, and make commendations to the Minister on any changes needed to the Code:

(c) To promote, by education and publicity, respect for and observance of health consumers' rights, and, in particular, to promote awareness, among health consumers and health care providers, of health consumers' rights and of the means by which those rights may be enforced . . .

(e) To investigate, on complaint or on the Commissioner's own initiative, any action that is or appears to be in breach of the Code of Health Consumers' Rights, and to take such further action in respect of any such breach or alleged breach as is contemplated by the Bill.

What an excellent basis on which to judge complaints. The functions of the commissioner continue:

(g) To appoint health consumer advocates, and administer the Health Consumer Advocacy Service in accordance with *Part III* of the Bill:

(h) To make suggestions to any person in relation to any matter that concerns the need for, or desirability of, action by that person in the interests of health consumers' rights . . .

(j) To report to the Minister from time to time on the need for, or desirability of, taking legislative, administrative, or other action to give protection or better protection to health consumers' rights.

The emphasis, which is totally different, is tipped by that legislation towards health rights. Those health rights are established by the code of health consumers' rights. We really should be looking at that kind of basis, as that is a most serious weakness in this bill. That is one of my two major reasons for advocating the need to go to a legislation committee to follow this procedure through. In the last week of this Parliament we cannot possibly deal with the kind of philosophical objection that I have to these provisions, which weaken the concept of this bill.

The Minister said that the findings of the Chelmsford royal commission essentially led to the preparation of this bill. It seems to me, and particularly to many people who have contacted me, that the recommendations of the Chelmsford royal commission have not been properly carried through into this legislation. The statement by the Chelmsford royal commission that "early intervention could have prevented the tragedy" basically has not been addressed by this bill. The royal commission's recommendation was for a very different model. A few of my colleagues will address the royal commission's recommendations in more detail later, including a professional conduct division of the

Supreme Court; combining civil compensation and private rights as part of a public regulatory and monitoring system; reliance on standards rather than peer assessment to determine whether a complaint is justified and whether breaches of codes have occurred. That is not too far away from what I was talking about earlier - an emphasis on health rights.

The royal commission recommended the lifting of secrecy provisions. That matter is not addressed in the

bill - a most serious weakness in the bill. The royal commission also recommended that a periodic directions list would assist the commissioner to ensure that complaints were not overlooked. Public exposure of delays, combined with judicial control, will also ensure efficient case management. One serious weakness in the present system is the never-ending headlines about a seven-year wait for investigation of health complaints. The kind of process provided by the bill runs counter to the recommendations of the Chelmsford royal commission.

Under the process provided for in the bill the Medical Defence Union can swing into action immediately a complaint reaches the provider. Evidence can be gathered, witnesses can be approached, interviewed and even pressured, and defences can be prepared before a complainant has had a chance to draw breath. The complainant lacks the same ability to prosecute a complaint. Perhaps the Health Care Complaints Commission should be the only authority to conduct interviews. Why should the Medical Defence Union be able to do what a complainant, a patient, cannot do? In effect, I am saying, as the honourable member for East Hills said, that patients' health rights are taking second place to the rights of health providers. [*Extension of time agreed to*.]

The second major reason that I believe the bill should be delayed and should be considered by a legislation committee is that we know that the Ombudsman has submitted a report to the Government on the operations of the existing Complaints Unit. It is outrageous that we are debating this bill and the Government is attempting to finalise it without waiting for all members of Parliament and the public to see what the Ombudsman has recommended. In a way, it is a denial of the freedom and independence that this House should have. Because we have not seen the Ombudsman's written recommendations we must delay the finalisation of the bill until we know what they are. We have already heard the Ombudsman state that the Government has acted foolishly by failing to consult him on this proposed new legislation.

The honourable member for East Hills outlined the ways in which the consultation process was flawed. There is no doubt that some consumer representatives and community groups have approved of the bill. The Minister outlined the consensus procedure that he went through. But the process was flawed in two ways. Only some consumers were consulted. Consumers who were significant victims of health services were not. I believe they were deliberately left out. The consultation process was flawed also because people who had given approval to it and had been involved in the process did not see the final draft of the bill. That is the wrong way to consult. People in many organisations such as the Chelmsford Victims Action Group, the Medical Consumers Association and the Council of Retired Union Members Association - which includes miners, the Federated Engine Drivers and Firemen's Association of Australasia, transport unions, the Building Workers Industrial Union and the metal workers union - who will use health services frequently as they approach later life, need to be assured of their health rights. This bill does not ensure those rights for them.

The Combined Pensioners and Superannuants Association is quoted by the Minister as approving this legislation. That is not the message that is coming from the Combined Pensioners and Superannuants Association. Most frightening of all is the fact that the Association of Relatives and Friends of the Mentally Ill is quoted by the Minister as agreeing to the consultation procedure, but when it saw the final draft of the bill it let the Minister and other people know that it no longer approved of it. We need to know why those people chose to withdraw their support after they had seen the bill. The Minister might have been rolled in Cabinet on a few significant issues that led to those people no longer being satisfied with the bill.

I am concerned about the impact of clauses 36 and 37 on whistleblowers. If we are taking a health rights and consumer rights approach to complaints, whistleblowers must be protected. Arrangements in regard to whistleblowers in New South Wales are not well established, and the clause 37 provisions to gaol or fine whistleblowers run completely counter to the concept of health rights and consumer rights. It is a sledge-hammer to gaol whistleblowers. A legislation committee needs to consider how whistleblowers can be protected while still protecting the privacy of patients who are affected and who have made a complaint, if they so desire. There are many reasons that a legislation committee must examine the bill.

A parliamentary committee will be established, which is an improvement on last year's bill. The parliamentary committee will have the same powers, almost to the word, as the parliamentary committees

oversighting the Independent Commission Against Corruption and the Ombudsman. However, it is important to note that the Health Care Complaints Commissioner will have much less power than the commissioner of the ICAC and the Ombudsman, both of whom are significantly more independent. One only needs to look at the provisions of the Public Sector Management Act under which the Health Care Complaints Commissioner will be appointed to realise the grave restrictions in the bill on the independence of the Health Care Complaints Commissioner. The joint parliamentary committee is no panacea.

The honourable member for Ku-ring-gai proved himself once again to be a rude and arrogant twit. In an attempt to denigrate the honourable member for
Page 5440
East Hills, the honourable member for Ku-ring-gai said that the honourable member for East Hills was shuffling papers and talking. At that time the honourable member for East Hills was quietly, without uttering a word to anyone, handing his notes to the attendant to give to Hansard. That is the kind of outrageous stupidity from the honourable member for Ku-ring-gai that leads Opposition members to treat him like the fool that he is.

Mr Phillips: You would not say that while he was here.

Mr MILLS: He does not have the courage to be in here; he left. Why is he not here? This is a debate.

Mr Phillips: Keep the debate on a higher plane.

Mr MILLS: I would be delighted to keep the debate on a higher plane. I will not tolerate the kind of idiocy that the honourable member for Ku-ring-gai showed in abusing, without any justification at all, the honourable member for East Hills. I want to briefly mention clause 56, which proves to be a blocking clause. That clause states that the commission may investigate a complaint that has been subject to conciliation. However, the bill provides in part 2 that a complaint that has been subject to conciliation may be investigated only if the conciliator's report contains a recommendation that the commission investigate, or if new material emerges that would cause the commission to refer the complaint for investigation in accordance with clause 23. In other words, if the conciliator does not recommend an investigation and, for instance, rejects the complaint, there is no further avenue of appeal. There is no one else to go to. That is strong justification for the independent review panel that was proposed by my colleague the Deputy Leader of the Opposition. In conclusion, I want to quote the final comments of the *Sun-Herald* editorial of 14th November, 1993:

> . . . ominously, the proposed bill also exempts the proposed new commission from Freedom of Information requests.
>
> This means members of the public will be unable to find out how effectively the new body is investigating their complaints about the medical profession.

[*Time expired*.]

Dr MACDONALD (Manly) [10.34]: I support the bill. At the same time I acknowledge that it has some shortcomings; it is not perfect. We are in the process, within this place and in society generally, of trying to develop accountability and scrutiny of the professions, but we have not yet got it right. We are moving down the path of seeking to open up the professions to scrutiny and to providing for consumers' rights. We are not necessarily going to get it perfect at the outset. Indeed, the medical complaints unit itself is far from perfect, but this bill is certainly a clear benefit and an improvement on what exists at the moment. Those improvements should be borne in mind when considering the views of those who oppose this legislation.

Those benefits have to be clearly spelled out at the outset. Some positive words should be said about this legislation, as well as acknowledging the difficulties we may have with it. It establishes a statutory commission with statutory powers. That is the genesis of this legislation. It was born out of remarks by the commissioner in the Chelmsford inquiry, Mr Justice Slattery, who said there was "a desperate need for statutory power over the commission". It establishes that and it is consistent with his request. It also allows for systems review, a concept that some people may have difficulty grappling with, but at the same time it has far-reaching effects on

the profession by allowing the commissioner to recommend a review of systems - something which is currently not available under the medical complaints unit.

That point was emphasised by the representative of the AIDS Council who addressed a meeting of the Independents and consumer groups, to which I will refer in a moment. He begged the Parliament to pass this legislation. It was a plea to put this legislation in place because of that particular benefit, which is a systems review. This legislation also provides for a parliamentary committee of review. That committee can recommend that certain amendments be implemented. That parliamentary committee of review is consistent with other standing committees that relate to commissions such as the ICAC and the Ombudsman. That committee will be accessible both to the commissioner and to clients.

When considering the views of those who oppose the legislation, it must be borne in mind that it accommodates the conciliation process. That is consistent with what is occurring elsewhere in Australia and consistent with a concept of alternative dispute resolution. One feature of this legislation is that, certainly at the outset, the major political parties in this State supported it, though consumer groups were divided. That concern confronted the Independents last week, and we decided to call a meeting on 10th November to meet with as many consumer groups as possible. We met in this place along with representatives of about 40 consumer groups in an attempt to determine their concerns and to determine those who were in favour and those who were clearly against. We have been provided with lists, which have probably already been tabled and referred to in the debate. Clearly, some major groups are in support of the bill. It is worth mentioning the New South Wales Council of Social Services, which represents about 500 organisations, and other groups that are clearly major consumer groups, such as the Australian Consumers Association and the Public Interest Advocacy Centre.

An equally impressive group is opposed to the bill. The Independents met representatives from both groups last week. From those discussions a number of issues emerged. It is worth quoting from a letter I received from the Public Interest Advocacy Centre two days after the meeting. It outlines the strength of the new bill and speaks of the independence of the body, the authority of the commission, provisions

enabling anyone to make a complaint to the commission, which must give reasons for its decisions and for discontinuing a complaint, the benefits of having a parliamentary committee, and the fact that dissatisfied complainants can go to the Ombudsman.

The list of benefits is impressive. I should refer to a plea that is made at the end of the letter, which says that the centre fears that further debate will bring out the health provider lobby, particularly the doctors, and that might result in an outcome far worse than the present bill. One result from the meeting was a change of heart by some of the mental health groups, such that I received a letter dated 12th November from the Mental Health Co-ordinating Council, which said, inter alia:

> . . . it is clear that the Mental Health Co-ordinating Council can now give its support to this legislation.

I should be happy to provide that correspondence to any member who has any doubt about its veracity. At the meeting last week one of the issues that emerged was the consultation process, which is far from perfect. It is unlikely that it would ever be regarded as perfect when there is such a disparate group of interested consumers and organisations. Each group must consult with its membership, which makes it almost impossible for the groups to agree. Undoubtedly rivalries and jealously exist between the groups.

If we had to revisit the process, we could do better. The Minister will acknowledge that the development of an exposure package, consistent with what was done in the Australian Capital Territory, may have been the better way to go. One can always make those remarks with the clarity of hindsight. We learned that the consultation process was not perfect. However, I would argue with those who suggest the bill should be referred to a legislation committee. That will not resolve any of those matters.

The other reason for the division among consumer groups is that each of the organisations brings its own

agenda for the bill. The goals are different, as is the model of what a health care complaints commission should be. Also, the timetables and sense of urgency will vary. For example, the Public Interest Advocacy Centre and the Australian Consumers Association come in with a very broad knowledge of consumer needs and rights and a strong legalistic emphasis. They see the benefit of getting the commission up and running. Earlier I mentioned that the AIDS Council of New South Wales made a strong plea in regard to the urgency of having a mechanism for systems review.

The Chelmsford group and the Medical Consumers Association came in with a different set of aims. Their agenda is different also. They have a strong focus on the mentally ill. The tragedy of Chelmsford is still very much a ghost for all of them, and they have a lot of unfinished business. However, I do not believe that this bill is a mechanism by which to complete that unfinished business. They appear to have different expectations arising from Mr Justice Slattery's recommendations. Indeed, during the discussions last week there was a difference of opinion as to what Mr Justice Slattery intended by his recommendations.

I do not consider that those who oppose the bill believe that it will ever be improved by future amendments. In other words, they are concerned that we get it right now, otherwise it will remain with us. That is why it is important for the parliamentary committee to be set up so that it can recommend certain amendments. It is clearly important to have a review of the legislation after three years. A case has been put for the establishment of a legislation committee. I do not support that proposal, for several reasons. The consultation process has been comprehensive, albeit not perfect. The differences among consumer groups will remain, for the reasons that I have outlined. Any delay may exacerbate the differences among those groups, and they may be worse off if they wait for some months than they are now.

Clearly the medical complaints unit needs to be replaced - and soon. First, it needs to be replaced to keep faith with Mr Justice Slattery. Second, the Ombudsman's inquiry that was initiated by Mr Landa 10 months ago is critical of the medical complaints unit. The inquiry found that the unit has management problems and difficulties with allocation of resources. For that reason we should proceed with this legislation. The commission will be oversighted by the parliamentary standing committee. At present that is not possible with the medical complaints unit. Parliament has no role in overseeing that unit. [*Extension of time agreed to*.]

Under the Medicare agreement the State must proceed to establish an independent, accessible complaints body. The proposed legislation committee or a parliamentary inquiry - whichever is proposed - may provide an opportunity for a number of groups to air their grievances. From my inquiries I do not anticipate or believe that it would result in major improvements or amendments. A number of specific concerns were raised at the meeting with Independent members last week. One was a suggestion that there were to be exemptions from the provisions of the Ombudsman Act. A letter has been put out through the Medical Consumers Association by a group of solicitors, who said:

> The immunity (albeit subject to some limitations) which the Bill would provide from the application of the Freedom of Information Act and the Ombudsman Act are in my view inappropriate and should be resisted.

That is misleading, for clearly it is not the case. The Ombudsman is excluded only from investigating questions related to the conduct of a conciliator; otherwise in administrative matters the complainant and consumer have every right to go to the Ombudsman. I would support an exemption with regard to the conduct of the conciliator, because the conciliator must not feel constrained in carrying out his process. Another specific concern raised was freedom of information. I understand that the

Minister intends to deal with that matter. An aggrieved complainant can go to the Ombudsman or to the commissioner, as the bill provides, and that may or may not bring results. Certainly a complainant can appeal to the parliamentary standing committee.

On the question of freedom of information I can understand the requirement to deny patients and a person being complained about access to information. Consumer groups have focused on that issue, but if they were given freedom of information, they would be doubly disadvantaged because inevitably the professionals are

stronger than the non-professionals. Freedom of information does not simply give equal access. The stronger groups will get more benefit from access under freedom of information legislation. I have spoken to the Minister for Health about the provision of the bill excluding complaint handling, investigative and reporting functions.

Yet, the present complaints unit states that once an investigation has been completed, complainants are welcome to make an application under freedom of information for access to all documents contained on a complaint file. The only documents exempt from access are those containing the name of the external consultant reviewer and the report he produced. I have already asked the Minister why we would want a commission that has less freedom of information access than that already available under the complaints unit. I understand that the Minister will take that matter on board. The other concern I had was the appointment of the commissioner. Indeed, appointment of the Ombudsman, the Commissioner of the Independent Commission Against Corruption and the Director of Public Prosecutions can be vetoed by a parliamentary committee. It is particularly important that much of the strength of this legislation will depend on having the right commissioner. We have to get it right, and Parliament must have a role in that.

The management powers of the commissioner are enormous, and one only need look at recent criticism about some of the priorities dealt with in the medical complaints unit. Indeed the question of whether the McBride inquiry really warranted the priority it was given and the expenditure involved highlights the fact that the commissioner must have wisdom in setting priorities. I would argue that the appointment of commissioner must be subject to parliamentary scrutiny. The latest form of the Medicare agreement includes a commitment on the part of each State to set up an independent accessible complaints unit. In 1987 a health services Act was passed in Victoria with the emphasis on dispute resolution. In 1991 a health rights commission was set up in Queensland with the emphasis on conciliation. South Australia has had 10 years' experience with a health services commissioner and, indeed, is moving towards establishing a health ombudsman.

Any complaint commission must provide clearly for consumers' rights, and I believe this commission will. The bill is not perfect; it may be amended. It will be reviewed at the end of three years. However, it does provide for an improvement in consumers' rights. Access to justice must clearly be allowed, and in my view the legislation does provide that. It must have an opportunity to have an impact on medical standards and on health practices. Again, the legislation does that. Finally, having been a professional for 25 years, I do not believe that the responsible health professional has anything to fear from this legislation. The irresponsible, inept professional has everything to fear because he will be brought to justice and the complaint of the client will be dealt with in a fair and reasonable way. The legislation has been around for three years. We have had the 1992 bill and now we have the 1993 bill. It has been walked over, massaged, improved, subjected to the consensus group and has had considerable amendment. It is disappointing that the previous strong political unity on this bill is being eroded. I support the bill and the amendments adopted by the Minister. I will not support this bill being referred to a legislation committee.

Mr SULLIVAN (Wollongong) [10.54]: I speak to the Health Care Complaints Bill. At the outset, I fully support the stand taken by the Opposition spokesperson on health. The honourable member for Manly raised the issue that South Australia, in particular, which has had some form of health complaints system in operation for more than a decade, is moving towards a health ombudsman. That is where we should be going without having to go through the learning phase that South Australia has been through and Victoria and Queensland are going through now. One of the objectives of the legislation is to facilitate the maintenance of standards of health services in New South Wales; the second one to which I will address my attention is to promote the rights of clients in the New South Wales health system by providing clear and easily accessible mechanisms for the resolution of complaints. I am sure honourable members have mentioned cases of medical practitioners who have been found derelict in their duty, negligent and so on. I shall not concentrate on that particular issue but on the systemic problems of our system, which this legislation does not address.

I wish to turn to the particular types of complaints that can be lodged. A complaint may be made under this Act about the professional conduct of a health practitioner relating to negligence, or a health service that affects the clinical management or care of an individual client. A complaint may be made against a health

service provider. To a certain extent that is repetition. To some extent it seems to cover system-based health services. This bill is an attempt to slowly circumscribe the rights and actions that can be taken by the complaints unit or commission to address problems fundamental to our health system. I make those comments because I have a concern for and long involvement in fundamental change within the public health system. I have served for a number of years on the Wollongong Hospital board, I was the first Chairman of the Illawarra Area Health Service from 1983 to 1986 and have been involved with a number of community organisations concerned with health since that time. That views I developed during the 1980s have certainly been confirmed of late.

Page 5443

The Opposition is opposed to the legislation being enacted and prefers that this bill should be referred to a legislation committee. In all honesty, that is the best way to go. Given that that may not come to pass, the Opposition will try to implement certain changes. I shall concentrate on one of those changes, which can be summarised as removal of restrictions on the reporting by the commission of systemic health problems. One thing that strikes me about this bill is that the commission is to be headed by an individual who will report, all knowing, all seeing, to himself. The Opposition would like an independent review panel established to assess complaints about the functioning of the system. As it stands now one would expect that what is needed is someone such as Archibald, known as Archibald the All-Right in "Patience". For those who are familiar with Gilbert and Sullivan, Archibald was so perfect in every way that Patience could not love him because love required a sacrifice and how can one be sacrificial of oneself when the source or attention of one's affection is perfect in every way? I do not know that we will find an Archibald who will fill this role. However, I would suspect that if an Archibald is not found, we will not end up with a particularly effective health complaints commission under this Act.

Three clauses summarise the Government's position in terms of the restrictions the bill places on the reporting of systemic health care problems. Clause 79 states that the commission is subject to the control and direction of the Minister, except in respect of - and then lists assessment of complaints, et cetera. The fundamental statement is that the commission is subject to the control and direction of the Minister. The very essence of clause 79 is contained within the explanatory notes that accompany the document. I thought I was being a bit pedantic, but the Minister said exactly the same thing in his second reading speech, at page 91 of *Hansard* of 28th October: "The commission will be under the direction and control of the Minister for Health". In that sense the one piece of legislation that appeals to me is the relevant section in the Ombudsman Act, that is, section 25, which states:

Consultation with responsible Minister

(1) In an investigation under this Act, the Ombudsman shall, on request by the responsible Minister, consult him on the conduct or police conduct the subject of the investigation.

(2) Before publishing a report under section 26, the Ombudsman:

(a) shall inform the responsible Minister that he proposes to publish such a report; and

(b) shall, on request by that Minister, consult him.

That is totally different from "The commission is subject to the control and direction of the Minister". That is a fundamental weakness for eradicating systemic problems within our public health system. Section 89 is headed "Recommendations to have regard to available resources" and states:

A recommendation made by the Commission in relation to a matter investigated under this Act must be made in such a way that to give effect to it:

(a) would not be beyond the resources appropriated by Parliament for the delivery of health services; or

(b) would not be inconsistent with the way in which those resources have been allocated by the Minister and the Director-General in accordance with government policy.

That says a great deal about the way the commission will be conducted under the direction and control of the Minister. To pretend - and it would have to be pretence - that it is in some way an ombudsman-type organisation is nonsense. The bill's explanatory notes that accompany that particular clause read:

Clause 89 provides that recommendations of the Commission must have regard to available resources for the delivery of health services and the way in which those resources are allocated.

That clarifies the clear restriction placed upon the functioning of the commission. Another concern relates to clause 90 of the bill. I am aware that my feelings are not shared by everyone, including members on my side of the Parliament. Clause 90 reads:

Nothing in this Act gives the Commission power to determine or recommend general standards of clinical practice.

The note beneath clause 90 states:

Note. While sections 89 and 90 limit the scope of a recommendation that the Commission may make, they do not limit other comment by the Commission.

The explanatory note in the bill relating to clause 90 provides that the commission has no power to determine or recommend general standards of clinical practice. General standards of clinical practice are not contained within the definition section of the proposed legislation. Therefore, I presume we must rely upon common law interpretation. This is an open-ended matter. I shall quote a couple of cases that concern me. In a perfect world if everyone is seen to be doing the best he can, there is a clear, open and honest intention that if standards of clinical practice are not maintained, action will be taken. However, the record within the health system is one which could reasonably be summarised as the old boy network, which tends to look after its own.

I shall refer to two cases where I believe clinical standards in the public system of this State have not been of an acceptable standard. The first example occurred during the doctors' strike of the 1980s when the decision was taken by the doctors who were providing an emergency service that though they were on strike they would use procedures that had mainly been discarded. Rather than operating on broken limbs, pegging or screwing them, which gave very rapid recovery, patients were placed in traction. That was a cruel and outdated method when, had that same accident occurred at a time doctors were not on strike, a different procedure would have been implemented. Another area of concern relates to orthodontics, which at this moment is considered by the Illawarra Area Health Dental Service as not an essential or fundamental part of health services. It is considered to be a luxury, notwithstanding the emotional trauma young children experience when they do not receive the treatment needed. The problem will affect their bite for the rest of their lives. [*Extension of time agreed to*.]

I am concerned with systemic health care problems and I shall restrict myself to a number of cases that have come to my attention in the past year where it seems that the system is failing the users of the public health system of this State. I shall refer only to Christian names. Franchesca has been waiting now for two years and three months for orthodontic work. The dental service acknowledges that she needs orthodontic treatment. The Illawarra Area Health Service has developed a strategic plan for dental services, giving the highest priority to preventive programs for the young while at school. Those in need of curative treatment, for example, orthodontic treatment, have been left in a no man's land where at the last count 150 young children were waiting for orthodontic treatment. At best, 25 would receive that treatment and the rest would simply miss out. This child's father has cardiomyopathy and is in receipt of a social security income pension. There is no possibility that he can pay for that treatment. That is the public health system malfunctioning.

Stanley has waited for more than 12 months for knee replacement surgery at the Port Kembla campus of

the Illawarra regional hospital. His surgeon's operating sessions have been reduced from eight a month to two a month. Stanley was extremely distressed when I saw him, experiencing difficulty walking and in sleeping at night. Who is responsible for this situation - the surgeon, the area health service or the Department of Health? I suggest that it is a systemic problem. William is a pensioner with a health benefits card and has been waiting since March 1992 for cataract surgery. He was recently informed that those on the waiting list as at October 1991 were now receiving treatment. I refer to question No. 1666, which was answered last Thursday, 11th November, by the Minister for Health, who said in his reply:

> The average waiting time in months for ophthalmology in the area was 3.87.

Yet William has been waiting since March 1992.

Mr Phillips: Perhaps questions should be asked of health care management in the region. Maybe they should tell the patient the truth.

Mr SULLIVAN: I have written to the Minister regularly about cases such as this. If I get a reply, I get one that does not address the matters at hand. I will next raise the issue of a girl called Kezia who suffers from Ondine's curse. That is a respiratory problem and during sleep sufferers can, and do, stop breathing. In her case her parents have sought respite care at home and have approached both the Department of Community Services and the Department of Health. By consensus in the Illawarra it seems to be a matter for the area health service. The problem is that the area health service says it cannot provide the services this girl needs to enable her to stay at home with her parents during some nights of the week.

At the moment a night nurse is provided one night a week. Her parents, family and friends provide two nights' care per week, which leaves four nights a week when she has to go to Wollongong Hospital. I suggest to the Minister it indicates a system failure that that need is not being met. I move on to one other case, that of Nikki. Nikki has severe cerebral palsy and epilepsy. She underwent surgery in August 1992. The parents were very dissatisfied and distressed and referred the matter direct to the Minister for Health. Subsequently I was contacted by the parents. I will read from a letter initially sent to the General Manager of the Illawarra regional hospital at Wollongong. The criticisms the parents made are these:

- an ineffective system for the delivery and administration of vital medications
- recently hired nursing staff who seem inexperienced with even the basics of medical care and who are not sufficiently supervised when treating patients
- nursing care that does not adhere to doctors' instructions clearly set out in case notes
- a general lack of knowledge regarding appropriate care for children with disabilities and quite often an attitude by most staff, that seemingly places children with disabilities as a low priority and as less than human
- grossly negligent post-operative care on the part of nursing staff, a paediatric registrar and, I believe, the surgeon who was ultimately responsible for case management
- inconsistent case management advice/instructions coming from the surgeon and the paediatrician involved
- a lack of quality assurance standards, which necessitates my considerable efforts in order to bring these events to your attention

Of course, the letter was written to the manager of the Illawarra regional hospital at Wollongong. In none of those cases do I think it could be said that someone acted nastily and failed to deliver. I suspect that in each case there may have been one individual, who could be named, who did not do one thing or another. But when one puts all those failings together, no matter how small, into a total package, it is the system that has failed. Under this legislation the system will escape close scrutiny once again. I believe the only answer is for the matter to be referred to a parliamentary committee so that we can have put in place a proper health ombudsman

Act. Such an Act would allow people to raise these matters in order to have them addressed. It would require this State Government to provide the service that a community and country at the latter end of the twentieth century should expect as a standard feature of its way of life.

Mr GIBSON (Londonderry) [11.14]: Before I speak to this legislation I should like to acknowledge the job done by the Minister for Health. Although my ideology is totally different from his, I acknowledge that he is a fairly hard-working person who tries to do the right thing. That does not mean that I agree with all the decisions that are made because nine times out of 10 I do not. I am very disappointed and concerned about the quality of the legislation. It is being put through hurriedly, although it has been on the table for a long time. There is no doubt that the legislation is being put forward tonight before the Ombudsman's report is made public.

Page 5445

Government members who have spoken to the bill have referred to consultation. The Minister spoke at great length a few weeks ago about the consultation that had taken place on this bill. To my way of thinking that consultation has been very poor. The only groups that were consulted and the only groups that seem to agree with the bill are those that are government funded. That shows that there has not been representation from the New South Wales wider community. Many members from this side of the House have mentioned various groups that oppose the legislation. I have a two-page list comprising many medical and consumer groups that totally oppose the bill. I have heard reference to half a million people being opposed to it, but I would say that the groups represented in this list would account for almost a million people. The list includes the United Action Group for Retired Persons, covering 300,000 people.

I note that the Minister has a list also, and perhaps we should compare lists. The Combined Pensioners Association represents 30,000 people. The Association of Self Help Organisations represents 50,000 people, and the list includes all forms of medical groups dealing with issues from alcohol right through to motor neurone disease and so forth. It includes organisations such as the Injured Persons Association, not to mention medical consumer associations, mental illness groups, nervous disorder societies, and the list goes on and on. The views of those groups cannot be denied. We have heard about the consultation that this great Government has carried out.

Mr Jeffery: It is a great Government.

Mr GIBSON: It is not a great Government. When I realise the consultation that has not taken place, I have cause for concern. Some Opposition members have referred to the Ombudsman. The editorial in the *Sun-Herald* as late as last Sunday said:

> Mr Landa has accused the State Government of acting foolishly by failing to consult him about the proposed health care complaints legislation.

That is an indictment of the legislation. It has been mentioned and it is worth mentioning again that the Minister spoke glowingly, publicly and in this Chamber, about the Association of Relatives and Friends of the Mentally Ill. I have a letter dated 20th November in which they state categorically that they do not support the bill and request that the bill be withheld until the results of a parliamentary inquiry are made available. That is an indictment of the legislation. For the Minister to say in this Chamber that he has widespread support is a complete joke. I think this is wrong legislation and that it is dangerous so far as New South Wales consumers are concerned. This legislation is not for consumers' rights; it is to protect the complaints unit as it now stands. It is also designed to take the pressure away from the Minister. The Minister passes on his responsibility to the commissioner, and that suits the Minister down to the ground. This Health Care Complaints Bill will virtually legalise what happened at Chelmsford. This has been mentioned a few times.

Mr Phillips: That is a disgrace.

Mr GIBSON: No, it is not. Sit there and listen and you might learn something. Fifty people died at Chelmsford. Thousands of people were hurt at Chelmsford and hundreds of thousands of people were disappointed and distressed by what happened there. I will tell the House more about Chelmsford. There was no respect given to those people at all. The Government did not even consult them.

Mr Phillips: Nonsense.

Mr GIBSON: It is not nonsense, and the Minister knows it.

Mr Phillips: That is a lie.

Mr GIBSON: The Minister puts his job on the line if he thinks it is a lie. He knows they were not consulted. It is a total disgrace. That group should have been the first group consulted, but they were not consulted. At least the Hon. P. E. J. Collins was responsible for the royal commission. The Government spent $15 million of the taxpayers' money. What happened with Justice Slattery? Absolutely nothing. Since then the Government has done absolutely nothing. The people of Chelmsford died in vain so far as this legislation is concerned because it will not help anyone who may be in the same position. The Chelmsford royal commission recommended that a royal commission be held into the medical complaints unit, but that has never happened. I have called for an inquiry into the medical complaints unit many times inside and outside this Chamber, but it has never happened.

Mr Phillips: You praised them today.

Mr GIBSON: I am not praising them. Let me give honourable members a little more history. How will this legislation help the Roberts family, who have been awaiting results from the medical complaints unit since 1990? How will it help the Formosa family, who have been awaiting the results of an inquiry that began in 1989? How will it help the Silva family, who have been awaiting the results of an inquiry since 1989? It will not help them at all, and the Minister knows it. Since 1989 the Atha family has been awaiting the results of their inquiry. The list goes on and on.

Some time ago I referred two matters to the complaints unit, and I think they are worthy of mention again. One matter involved a seven-year-old boy who lay in a public hospital bed in Sydney's west for three days in terrible pain. At the end of three days, his parents were concerned that he was going to die. Eventually, and against the hospital's wishes, the parents removed the little boy from the hospital and admitted him to another public hospital. He was not in that hospital for 30 minutes before doctors diagnosed that he had a twisted testicle. The doctors operated, but it was too late to save it. He lost a testicle. I know why he lost it, as does everyone else, because of incompetence by the doctors at the first hospital who examined him. That matter went to the medical complaints unit. In all fairness to the unit,

the matter was investigated. It came back to me and gave me an answer: "Everything is okay. No fault of anyone. Thanks for your letter". It took three years for the unit to get back to me.

The second case is even better. A woman in my electorate by the name of Cammille Hurst underwent an operation at the Minchinbury private hospital. Following the operation she was extremely ill and has been ill ever since. Before she was discharged, the wound burst and she all but died. However, hospital staff could not work out why she was in so much pain and why she had so much infection. After many months of endeavouring to recover from the operation she came to see me. She told me the story and I thought it worth while to refer the matter to the complaints unit for investigation. In all fairness to the medical complaints unit, it investigated the case, told me there was nothing wrong, no doctors had anything to answer, everything at the hospital was okay and it was just one of those things that could not be explained.

I was not convinced. Under freedom of information I asked for the theatre documents relating to this woman from Minchinbury private hospital. I would not be able to do that under this legislation. The first document I obtained said in black and white that after the operation five swabs were missing. There are only

two conclusions that one can draw. First, that that lady was closed up with five swabs still inside her. I would say that, because of the massive infection she suffered and the condition that she is in today, that is probably what happened. The second explanation is that there was a simple miscalculation of the number of swabs. However, the medical complaints unit - and this is the unit the Government wants to turn into a commission - investigated that case. It took 37 months - three years and one month - to investigate it. I cannot accept the findings of the medical complaints unit. This document was not even looked at by the medical complaints unit, yet it had 37 months of investigation in which to examine it. That is the unit that this Minister wants to turn into a commission.

On further investigation - and this is very interesting - the incomplete files from the medical complaints unit are as follows: 1986, 1 file; 1987, 16 files; 1988, 36 files; 1989, 101 files; 1990, 261 files; 1991, 551 files; 1992, 1,044 files; totalling 2,010 incomplete files under investigation by the unit that the Government wants to turn into a commission. On 14th July, 1993, at the first open morning of the Medical Consumers Association, Merrilyn Walton, the director and guest speaker, opened proceedings by noting that for the past two years the complaints unit had focused on talking to providers, mainly to get them to understand what the unit was about. The 1990 annual report, which she presented, is the latest report the unit has produced. She made a flippant comment that the unit intended to produce an annual report for 1992. [*Extension of time agreed to*.]

This is the unit the Government wants to turn into a commission. It is the most incompetent unit of any State Government. We need a better way, but this is not the answer. Honourable members know that the tragedy of Chelmsford could have been prevented, but this bill will do nothing to prevent what happened at Chelmsford recurring. The Minister for Health can shirk his responsibilities to the people of New South Wales by handing complaints about the health system to a statutory body, controlled by a single bureaucrat with unlimited discretion to decline to act on any complaint, and there are no effective appeal mechanisms. The Minister knows that and so do I.

The bill stipulates prison sentences of six months and or $1,000 fines should any complainant or person reveal any information relating to an investigation by the commission. That is a total joke! The bill also provides for $1,000 fines for revealing information from a conciliation process. This is the worst deal to be given to consumers since the Indians sold Manhattan, and I kid you not. This Government spent $15 million on the royal commission. What has this Government done since the royal commission? Bearing in mind that the Government spent $15 million to find out what it should be doing, let us see how many of the recommendations of Justice Slattery have been carried out?

What has the Government done about establishing the professional conduct division of the Supreme Court that Justice Slattery recommended? Nothing has ever been heard of it and the bill says nothing about it. Professional standards across disciplines was a great idea. Instead of doctors investigating doctors, or police officers investigating police officers, what happened to that idea from Justice Slattery? It is not even mentioned in the bill. What about the standards made clear in advance so that professionals will know what standards are applicable to them? Nothing in the bill relates to them. What about what Justice Slattery said about combining civil compensation and private rights as part of public regulating and monitoring systems? There is nothing in the bill to deal with any of that.

Nothing in the bill addresses multipurpose hearings to save money and time or reliance on standards rather than on peers - and that is exactly what the Government is reverting to with this legislation: one commissioner who will be appointed for 10 years. It is a total joke! What about regulating and monitoring through the civil jurisdiction of the court? What about Mr Justice Slattery's recommendation to lift the secrecy provisions? The Government wants to take away the right of people to get information under freedom of information. What about what Justice Slattery said about access to databases or about a statutory authority independent of the Department of Health? He also mentioned that provision should be made to examine private complaints. Nothing has been done about that. What about continuing education? It has been overlooked. Optional conciliation has been overlooked. Optional privilege and confidentiality has gone by the board. Nothing in the bill suggests that anything has been done about liaison with the coroners. The Government has spent $15 million of taxpayers' money. What did the Government buy for

it? It bought absolutely nothing. I will finish by quoting from a letter from Greg and Dianne Split from East Hills. In the letter they said:

> We are writing to you with our concerns regarding the proposed New South Wales Health Care Bill.

This is one of hundreds of letters I have received. I have no doubt that other members from this side of the House and Government members have also received such letters. The letter continued:

> This bill does not in any way address problems which my husband and I experienced following a complaint regarding the treatment of our son, Aaron, now aged 2 years. Aaron spent the first 9 months of his life in Camperdown Children's Hospital after being diagnosed with a heart tumour - a very rare condition even worldwide. Aaron suffered life threatening infections as a result of neglect and traumatic procedures.

The letter goes on to talk about what happened at the hospital and about what the hospital did. The part of the letter I want to read is this:

> We then lodged an official complaint with the Complaints Unit through out local member of Parliament, but after six months we have not even received any progress report. This is most disturbing as we have learned of other similar complaints lodged during the period our son was hospitalised and after which have been in the hands of the Complaints Unit for more than 2 years without yet being resolved . . .
>
> We feel after this experience that ordinary people - particularly where serious complaints are involved - should not be left to argue medical standards.

That is exactly what they will have to do under the Government's bill. The letter continues:

> This surely is the responsibility of the government to maintain medical standards and minimise medical malpractice in our hospitals.
>
> The proposed bill encourages conciliation by establishing a Conciliation Registry, which will leave people to their own means to argue their complaints with providers. This is a grave concern to us and should be of major concern to our legislators representing the people of New South Wales.
>
> The bill also includes a summary clause for the dismissal of complaints without provisions for appeal to an independent body to review the Commission's decisions.

Dianne Split concluded the letter by saying:

> We as parents of a little baby boy, who almost died through medical malpractice are terrified at the possibility of this bill becoming the law.
>
> There has been a great deal of public criticism over the bill and accordingly I would be grateful for your response . . .

Dianne Split decided to sit down and write a letter. It is a genuine case, like most of the other cases. The bill will not help people like Mrs Split and her husband or Camille Hurst and everyone else who has legitimate complaints It will not help them one iota. Amendments will be moved, and I hope the House will support them.

Mr SCULLY (Smithfield) [11.32]: I speak to the Health Care Complaints Bill. The bill is important legislation that will cement into place a form of accountability by the providers of health care to New South Wales citizens. I welcome that, as I welcomed the introduction of the health care complaints unit into the Department of Health. The bill deals with the culture of those who wish to lodge complaints against health care providers. I congratulate the Minister for implementing a parliamentary committee, which will work reasonably

well. I am a member of the Committee on the Office of the Ombudsman, and that committee has worked reasonably well. In speaking to this bill, I want to put one or two case examples on the record. They deal with my constituents.

The first case relates to Mr Leo Kalas, whose wife died aged 27 in late 1991. After visiting more than one doctor and more than two hospitals, she was told she was suffering from food poisoning. She eventually died from a severe brain haemorrhage. I lodged a complaint against a number of doctors and a number of hospitals. I will not go into the substance of the complaint because it is detailed and complicated, but I am concerned about the inordinate delay in dealing with the matter. After two years, and many letters and many telephone calls from me and my constituent to the complaints unit, we have received constant explanations that it is a complicated inquiry and we should just be patient. I am told that the status of the complaint today, a little over two years after it was made, is that additional information is needed from Fairfield hospital. It is pathetic!

My constituent is a young man; he is not yet 30 years of age. He went through extreme bereavement and grief and continues to do so. In some cases part of the grieving and bereavement process when a close relative passes away may relate to the processing of a complaint by the complaints unit. How can I say to that young man, "You have got to get on with your life. Your wife is dead, get on with life", when this matter is still hanging in the air two years down the track. He cannot. It is totally unacceptable. I want to refer also to the case of Mr and Mrs Watts. Mrs Watts had a baby boy at Fairfield hospital in July 1992. That baby died as a result of intussusception, which, I understand, is a twisting of the bowel. I look to the honourable member for Manly; I think that is the simple terminology. It is not an uncommon thing. I am told that if it is detected early, it is not fatal. In this case it was not detected and as a result of what I believe was, at the very least, slack treatment by a paediatrician and the nursing staff, it went undetected and the baby died. At worst, it was gross dereliction of duty.

I raised the matter with the complaints unit on 1st September, 1992. Guess what? The complaint has not been resolved. In the meantime it has become bogged down in a quagmire of administrivia. It seems to me that the complaints unit loves paperwork. It loves writing letters. It loves receiving replies. It likes writing more letters. It likes sending out questionnaires. Goodness knows what it does! I assure the House that these people went through as much grief and bereavement as Mr Kalas. While they were waiting for the complaint to be dealt with Mrs Watts had another baby. That baby is now four months old. I do not think it is good enough when people have to wait that long for their complaint to be dealt with.

Page 5448

[*Interruption*]

Why does the honourable member for Oxley not listen? Surely he has constituents who have brought to his attention matters they want to bring before the complaints unit. I have had a look through the glossy annual report issued a day or so ago by the complaints unit. The number of complaints received in 1992-93 appears to be 1,738. Of that number, 20 per cent have been declined, 3 per cent have been substantiated, 12 per cent have been sent to conciliation, and an inordinate 60 per cent are under investigation. One should compare those figures with the figures relating to complaints in 1991-92. In that year the number was 1,700. Of that 1,700 complaints, 25 per cent were declined, 8 per cent were substantiated, 21 per cent were conciliated and 27 per cent are under investigation. This report contains pages of claims about what a wonderful job the complaints unit is doing, but it contains not one apology to the people of New South Wales or to the people who have bought matters to the attention of the unit. The report is merely self-aggrandisement about what a wonderful job the unit is doing.

Member after member of my party has told me about a large number of cases before the complaints unit which have been inordinately delayed. I would have thought that an annual report would have included an explanation of the dramatic difference between the 60 per cent of cases under investigation and the lower number of cases in earlier years. There is no doubt that investigations simply take too long. The problem is that the complaints unit has no teeth. I ask the Minister to go through the report and explain to us why there

have been these inordinate delays. What compulsion is there on medical officers to answer questions? What requirement is there for them to give information? There is no compulsion and no requirement. They go to the Medical Defence Union and say, "We have a letter from the complaints unit". The Medical Defence Union then drafts a response which is non-committal. All they are worried about is disciplinary action - not getting to the truth of the matter.

There is no reason why suitable amendments could not be made to the Health Care Complaints Bill to introduce some form of compulsion. A few provisions in the bill should be brought to the attention of the House. I believe that clause 89 is a dreadful rort. If Government members believe that it is not, I suggest they should read it. It is one of the most disgraceful, sneaky, administrative exercises that I have ever seen. Clause 89 seeks to curtail the ability of the commission to make any recommendation which will allegedly be "beyond the resources appropriated by Parliament for the delivery of health services." This means that the commission will not be able to recommend anything, because the Minister will be able to say, "Any recommendation dealing with systemic problems cannot be dealt with because it is beyond the resources appropriated by Parliament." That is not appropriate. The Opposition will be seeking to have that provision removed.

I want to refer to a matter concerning my mother, who died of cancer. Two months after she passed away my father discovered, after a considerable amount of research, that the drug she had been given for chemotherapy worked only in one out of 100 cases of people suffering from the cancer from which my mother was suffering. I wanted to take up the complaint but, because of considerable pressure from my father, I did not. Having been the member for Smithfield for three and a half years, and having taken up matters with the complaints unit, I am not satisfied that that unit would have been able to deal with a complaint of that nature. It would not have been able, in a timely or diligent manner, to deal with such a complaint. These are the sorts of cases of which I have had experience. I have no confidence in the complaints unit at the moment. Some of my colleagues may have confidence in the current director of the unit, but I want some explanations as to why complaints are not being dealt with diligently and in a timely fashion. We do not need glossy annual reports that give us a warm, inner glow; we need answers.

Mr PHILLIPS (Miranda - Minister for Health) [11.44], in reply: I thank the Deputy Leader of the Opposition and the honourable members for Albury, East Hills, Ku-ring-gai, Wallsend, Manly, Wollongong, Londonderry and Smithfield for participating in debate on the Health Care Complaints Bill. The quality of their contributions varied dramatically. I was concerned about the lack of understanding of the bill by a number of honourable members, and I will deal with a number of the matters raised because I believe this bill is important. I need to deal with the issues raised by honourable members, to state whether they are right and to establish whether they will be addressed.

The investigation of complaints concerning treatment and care provided by health practitioners is no easy task - a matter referred to by the Deputy Leader of the Opposition in his contribution to the debate - particularly when the body responsible for investigation is without statutory powers. Acting Justice Slattery, in his report on the Royal Commission Into Deep Sleep Therapy, commended the complaints unit on its success in investigating and prosecuting in the absence of a legislative base. Public confidence in the present health complaints system, coupled with the need to properly delineate the responsibilities of the complaints unit, the New South Wales Department of Health, health professional registration boards and the Minister for Health in this system, demand that the respective roles of those bodies be formalised in legislation.

The Health Care Complaints Bill provides for the establishment of a Health Care Complaints Commission and a separate health conciliation registry. The commission will primarily be responsible for the investigation and prosecution of complaints relating to the clinical management and care of health consumers in New South Wales. It will also be responsible for investigating complaints raised about the delivery of health care directly affecting the

clinical management and care of clients. In order to ensure that the commission is able to fulfil its responsibility for the investigation of serious complaints the commission has been provided with powers of entry, search and seizure. These powers will be exercised only with the consent of the owner or occupier of the

premises in question, or under the authority of a search warrant.

In addition, the commission will be provided with the power to prosecute complaints relating to registered health practitioners before the appropriate professional standards committees or tribunals. The bill also formally establishes conciliation as a new method for resolving minor complaints about health care, while the decision about which complaints will be referred for conciliation is to rest with the commission. In consultation with the appropriate registration board and with the consent of the parties, responsibility for organising conciliation will rest with the health conciliation registry. A careful reading of the final report of the Royal Commission into Deep Sleep Therapy will show that the bill adopts many of its recommendations concerning the complaints unit, most notably those concerning the need to establish the complaints unit as an independent body and to define its powers by way of statute. That was the main recommendation of the royal commission regarding the complaints unit. That was the reason this bill was processed and introduced.

That does not mean that all the royal commission's recommendations have been accepted. For example, the royal commission made recommendations about the complaints unit and a complaints mechanism for mental health professionals. The department believes - and I support the view - that there should be one body to investigate and prosecute complaints concerning the treatment and care of individual clients. I also support the view that it is inappropriate for an investigation and prosecutorial body to be governed by a council or a board. It does not happen elsewhere. I am sure that all honourable members are aware that the bill presently being discussed has changed substantially from that tabled at this time last year. I reiterate my thanks to the Public Interest Advocacy Centre for its assistance in drawing together the views of consumer groups on the 1992 bill, as well as variations to that bill. I understand this was a most successful method of obtaining the input of community groups within a short time frame on what is clearly a complex issue.

The Health Care Complaints Bill is a watershed in the handling of health complaints in New South Wales and Australia. With the establishment of the health care complaints commission consumers can be confident that any complaint they have about health services will be dealt with by a body independent of the New South Wales Department of Health, and the professional bodies responsible. I am confident that, once commenced, the Health Care Complaints Bill will be embraced by health professionals and consumer organisations alike.

Let me come to the particular issues raised. First of all, the Deputy Leader of the Opposition made the suggestion that the bill should be referred to a legislation review committee. I do not know how long honourable members want to spend debating this bill and I do not know how perfect they feel they can make it. I do not know how on earth there can be 100 per cent agreement on such a complex issue, with such a variety of views that cross the whole community. I have never pretended to be able to get 100 per cent agreement, because that is impractical and impossible. There has to be a process to get something in place; we have to then make it work; then review it and correct it in order to fine-tune it.

That is what happened with the Mental Health Act introduced in this State by the Government. It has worked very sensibly and that is what will happen with this bill. It does not matter what bill the Government finally comes up with; it can be taken to a legislation review committee and that committee will be totally divided about the issues, and would have to make recommendations. One could come up with a bill but, until that bill is tested in the field, it will not be perfect. That is the reality. The Government cannot come up with a perfect bill. As the honourable member for Manly asked: Are we moving forward? We are in a developmental path and we will keep moving forward.

This bill has been three years in the making. An enormous number of people, both within the department and within consumer groups, professional boards, professional associations and the union movement have spent hours and hours and hours mulling over how to approach this problem and the various issues related to it. It has been subjected to intensive and massive consultation. No one can doubt that. Just how broad do honourable members want the consultation? Consultation does not mean 100 per cent agreement. That seems to be the impression people have gained, that consulting means saying, "What is your view? Yes, I will do it". It does not work like that. Consultation on a very complex issue, across professions and consumer groups, is about trying to find the fair position for both parties from which to move forward.

In March of this year the Government wrote to 70 groups - and here is the list - calling for submissions. It analysed those submissions and set up a consensus group through the Public Interest Advocacy Council - PIAC - a body independent of government. It was felt that the most appropriate way was to try to get the issues together and get an arm's-length group to work through them and come up with a sensible proposal. That is what has been occurring for months. Honourable members should have a look at some of the groups. It is important that the Government dispel the nonsense about lack of consultation. The groups that are supporting the bill are groups such as the Australian Consumers Association. The honourable member for Londonderry slighted that group by including it in the groups funded by the Government. That group has as

one of its policies never to accept a dollar from any government. It wrote to the Government and - to put aside the nonsense about phone calls - said:

> The NSW Health Care Complaints Bill has been tabled in Parliament and it spells good news for NSW consumers.

The letter says at the end:

> On the whole, we believe the Bill deserves bipartisan and community support.

The list goes on: the Council for Intellectual Disability; the Council on the Ageing; the Public Interest Advocacy Centre; the AIDS Council of New South Wales - ACON - which has a tremendous vested interest in this issue on behalf of its customers and patients. It says in its letter:

> The AIDS Council today called on all parties in Parliament to expedite debate and passage of the Health Complaints Bill due for debate next week. People with HIV-AIDS simply cannot afford further delays in establishing the complaints commission proposed in the bill.

The letter concludes:

> The bill contains legislative provisions for formal review of its operations within three years. Let us get it up and working, then fix what we need to rather than just talk about it for another three years.

That is the appeal that has come from ACON. The Mental Health Co-ordinating Council Inc., the Australian Medical Association, the Medical Services Committee, the Nurses Association, the Council of Social Service of New South Wales, the disability safeguards coalition, the consumer advisory committee to the complaints unit, the New South Wales Council for Intellectual Disability, the Network of Alcohol and Other Drug Agencies, the Australian Association for the Welfare of Child Health - the list goes on and on.

One of the things that concerned me was the list that was trotted out by the Opposition. I have a copy of the list, because it has been distributed quite widely. These are the groups opposing health care complaints, making up, the Opposition says, half a million people. The first group of 300,000 it lists on the letter is the United Action Group for Retired Persons. There is the Retired Communication Workers Union, the Justice for Veterans Association, retired miners, the retired Federated Engine Drivers and Firemen's Association of Australasia, the retired members of the Liquor Hospitality and Miscellaneous Workers Union, the retired members of the Australian Railway Union - the retired this and the retired that. What concerned me about this particular issue, in terms of the people who are opposed to the bill, is that there is no doubt in my mind - and I think it is a most unfortunate part of this process - that there is a small group which, in the total picture of things, is determined to do whatever is necessary to totally undermine the process and kill it.

Honourable members know that is a good political process. If you cannot attack the substance, attack the process. That is what this is all about. That is what referral to a legislation review committee is all about. It is about giving that small body time to go out and create fear and worry among groups, as they have already done among the elderly, and to lie about what is proposed in the bill and what it will do. I do not think that is acceptable. I make a further point about this consultation. New Zealand was used as an example by the

honourable member for Wallsend, I think it was, who said it was a tremendous example of what we should use. Three to four years ago New Zealand referred its complaints proposal to a legislative review committee. The legislation has been with that committee for three to four years and is still sitting there. It never looks like seeing the light of day; it is a very complex issue on which many people have very differing views because, like our legislation, it is venturing into very new territory.

I have no qualms about the fact that we have consulted widely and for a long time. The bill came out at the end of 1992. Concern was shown and it was withdrawn. Groups were written to and consulted, and those who wished came forward. We spoke to the Independents and the Opposition and adopted many recommendations from that process in order to make the bill not only better but as bipartisan as possible, because it is essential, if there is to be a good process, that the largest group possible supports it on a bipartisan basis to enable the bill to move forward.

This Government rejects any proposal about a legislative review committee, because that process would create unnecessary delay. It cannot improve the result, because the issue is divisive and complex and is likely to disappear down the hole for a long time. It will not improve the bill and will not test the bill, which is the next step to which we have to go. Another important reason that the Government will not support referring the bill to a legislative review committee is that people have spent an enormous amount of time in preparing the bill for introduction to the House. If more time is consumed over subsequent months trying to keep this bill on track, that will be unfair to the people who have worked hard on this job. We should go forward, and that is the next step we must take.

The honourable member for East Hills raised the question of the Ombudsman's report. Unfortunately, that report, which has landed on my desk, has noted across the front of it that it is not to be shown to anyone, and not to be discussed with anyone outside, because it is a draft report. That is not my fault; those are the requirements of the Ombudsman Act, and the Ombudsman sent the report to me. It is also unfortunate that the contents of part of that report with a particular spin on it reached the media at least a week to two weeks before it hit my desk. I was advised by a member of this House on the day on which it was going to hit my desk that it would be hitting my desk. I do not know how that happens. I find it totally undesirable with respect to a report from the Ombudsman.

The only thing I can do to fulfil my obligations under the Ombudsman Act, and the Ombudsman's requirement, is to meet with him and discuss his recommendations before a final report is issued. I

assure the House that that report, which took 10 months to produce, refers to the management process and the way things are managed through it. Its recommendations in no way have any impact on the creation of the complaints commission. I assure honourable members that all information contained in the Ombudsman's report will be used in terms of the way the new complaints commission is structured and goes about its work. That again relates to moving forward. That is what I am talking about, and I cannot say any more than that.

The honourable member for East Hills said at the end of his speech that in five years I would be saying the bureaucracy was the reason we got it wrong, and I should have looked more closely at the bill. I have spent an enormous amount of time in consultations on the bill, both within and without the department, including meetings with the Chelmsford Victims Action Group some time ago. Honourable members will not have to wait five years. Those who read the bill will see that it is to be reviewed within three years and that a committee, to be established in a year or two, will have a year in which to review it. At the end of the third year it will have reviewed the operation of the bill and made recommendations. I do not pretend I am going to get it 100 per cent right, so a mechanism has been put in place to look at its working and appropriately amend it at the end of the day.

The honourable member for Wallsend spoke about the Medicare agreement, and read out the requirements of the Medicare agreement. That is an important part of this bill. The bill fulfils every requirement of the Medicare agreement. Every requirement that the honourable member for Wallsend read out is fulfilled in the bill. He also said the Medicare agreement should not affect the rights of people at common law. It does not

change the rights of people at common law. In fact, he then mistakenly said that leaving out the freedom of information part of the bill has an impact on the common law rights. I do not have a great understanding of law, but even an accounting manager knows that FOI is not common law; it is the statutory right of individuals to obtain information. Let us make sure we get our facts right when we are handling this bill.

The honourable member for Wallsend also spoke about the inclusion of a code of behaviour. This is the very subject being managed under the Medicare agreement through the development of a patients' charter of rights. Detail of clinical practice standards are under constant review by the various colleges and various groups of practitioners. That is very important. The important part of the Medicare agreement and codes of behaviour is that the charter of patients' rights is to be negotiated and agreed to between the New South Wales Government and the Commonwealth. That is in process at the moment and is separate from the requirements of the complaints commission and of the Medicare requirements regarding this bill. This Government and I as Minister strongly support the principle of a patients' charter and we will continue to develop that charter.

I was asked by the honourable member for Wallsend to give an indication of time. He will not have to wait long. The honourable member for Wallsend and the honourable member for Londonderry spoke about the Chelmsford findings, on which I have already commented. One of the prime groups which constantly says it has not been consulted - and the honourable member for Londonderry said so also - is the Chelmsford Victims Action Group. That is not true. After the 1992 bill was tabled and concerns were expressed I met with the Chelmsford Victims Action Group and listened to their concerns. They then wrote to me and to the department listing their concerns. Those concerns were responded to. The Public Interest Advocacy Centre wanted to involve the Chelmsford Victims Action Group in the consultation process, but the suggestion was rejected.

The Chelmsford Victims Action Group did not want to be part of that process. I do not know what else the Government can do except ask people to be involved and write submissions. In the past some of the concerns raised have been agreed to but not those resulting from reading between the lines. I do not agree they are there. Consultation is not about agreeing with everything that is put forward. I am sure the Chelmsford Victims Action Group will monitor the new commission over the next two to three years and it will have another committee to which it can make representations on whether or not it is working.

The honourable member for Wallsend raised the issue of whistleblowers. I thought he was talking about the old bill. At least the honourable member for Londonderry was referring to the 1992 bill and not the bill currently before the house. Under the whistleblower clause it will be an offence for a person to threaten, intimidate, induce or persuade another person not to make a complaint, or not to proceed with a complaint, or not to assist the commission or a registration authority in its dealings with a complaint. It will also be an offence to refuse to employ or to dismiss a person because the person intends to make or has made a complaint, or is assisting the commission in its dealings with a complaint.

Further, there are no fines - another furphy that has been raised - imposed on individual complainants who disclose information. The only offence is in clause 37, which imposes a penalty where an authorised person discloses information obtained under the special investigative powers of the commission. This will ensure that officers of the commission will be bound not to release information they obtain, such as personal or distressing details of a complainant's medical condition. Obviously parties must be protected from that information being made public. I have no problem with that.

The honourable member for Manly has it right. He spoke about moving down the pathway to getting this new course right. It may not be perfect in the eyes of some people. As I said, I do not pretend to be able to get it 100 per cent right, but I believe we

are on the right track and we should continue to move forward. I take this opportunity to thank the honourable member for Manly for his professional approach to consulting the Government about amendments that have been brought to his attention, amendments that have been included in the bill, and additional amendments that I will move in Committee. The same offer was made to Opposition members but over the past fortnight they have not come forward with any recommendations for inclusion in the bill. That one side decides not to consult

properly makes it difficult to move forward sensibly.

One of the issues raised by the honourable member for Wollongong was that the commission was subject to the control and direction of the Minister. Clearly, the independence of the commission is established under clauses 74 and 79. Clause 74 constitutes the Health Care Complaints Commission as a body corporate and provides that it be a statutory body representing the Crown. Clause 79 provides that although the commission is generally subject to the control and direction of the Minister, the Minister cannot direct the commission in relation to the assessment of a complaint, the investigation of a complaint, the prosecution of disciplinary action against the person, the terms of any recommendations of the commission or the contents of a report of the commission. Those are some of the items. In addition a parliamentary committee will oversee the workings of the commission. The commission will be required to report to the Parliament annually. it will have the ability to report separately on a matter of concern to the Parliament if it so desires, and the list goes on.

Mr Gibson: Can you appeal to the committee?

Mr PHILLIPS: What are you talking about?

Mr SPEAKER: Order! I call the honourable member for Londonderry to order.

Mr PHILLIPS: I found the question of the ability of the complaints unit to determine clinical standards confusing. One of the problems is that a whole group of people are trying to make the bill do too much, trying to make it bigger and broader and encompass many possibilities, one of which is the issue of clinical standards. The Deputy Leader of the Opposition knows the difficulties of pursuing the issue of clinical standards. A whole raft of colleges and processes are going down the path of resolving clinical standards. If a complaints commissioner or a separate unit is required to gather or garner medical advice to determine clinical standards it will disappear down a hole for the rest of its life. The Labor Party also has conflicting opinions about that issue. During debate on this bill one member said that the complaints unit should determine clinical standards and another member said that it should not determine them. I believe that the complaints unit should not determine clinical standards.

Another issue raised was systemic problems. This has been an important addition to the bill. The bill provides that if the complaints commissioner finds or determines that there are systemic problems, he can write to the department and advise it of his concerns. If he is not happy with the department's action or response - and the honourable member for Londonderry should listen because he made significant noise but knew least about the contents of this bill - the complaints commissioner can then advise the Minister of his concerns. If the complaints commissioner is unhappy about the Minister, he can write to the Parliament. That is an important step forward in the systemic control process.

Another matter that I found disturbing was the attack on the complaints unit by the honourable member for Londonderry, which was in total conflict with the statements of the Deputy Leader of the Opposition, who praised the work of the complaints unit. Most disturbing to me in the past couple of years is the way in which the complaints unit has been most unfairly and unnecessarily maligned. As the royal commission indicated, as the Deputy Leader of the Opposition indicated and as I will clearly indicate, the complaints unit, which was established in 1983, has done an excellent job as a pathfinder. In that time and in a most difficult climate it has achieved an enormous amount and the people associated with the complaints unit, Merrilyn Walton and her team, should be congratulated on the work they have done over many years.

This new step is a way forward to further improving the handling of health care complaints in New South Wales. I am sure that further action will be taken in the future as we learn more about how to improve this process. I shall deal now with the foreshadowed amendments to the bill. I thank the Independent members - the honourable member for Manly, the honourable member for Bligh and the honourable member for South Coast - for the way they have consulted. The Government will accept some of the proposed amendments and oppose others. The amendments that the Government will move relate to the powers to veto the appointment of a commissioner.

This matter was brought to my attention by the honourable member for Manly and will bring the Health Care Complaints Commission into line with the Ombudsman and the ICAC in that a committee of the Parliament will have the power to veto the appointment of the complaints commissioner. The amendment also will introduce further accountability. The committee of the Parliament will have a power of veto over an appointee to the position if it is dissatisfied with a specific appointment. The Government will be happy to accept that amendment. Another amendment, which arose from the consultation process, relates to freedom of information. The honourable member for Manly made strong recommendations about this, as did many other people.

The Government will move an amendment that will provide access to freedom of information after investigations have been completed, as parties must be protected during an investigation. Another

amendment that will be moved by the honourable member for Bligh will incorporate a code of practice in the regulations. The Government will accept that amendment, which will mean that the commissioner must consult with the community and the organisations involved to arrive at a code of practice for the complaints commission and then put that code into place. That is an excellent amendment.

The Government will oppose amendments that would affect the independent review panel. When a complaint is lodged and the complaints commission has made a decision, under the bill a party aggrieved will be able to ask for the decision to be reviewed. If the complaints commission sends the matter back for review, it is proposed that an independent review panel be established so that a complainant may make a further appeal. I wonder how this will be handled administratively. No such provision applies to the ICAC or the Ombudsman. I am not speaking about criminal matters. When will people be able to have confidence in the process? The proposed amendment would create a complaints unit at arm's length from the department for those who are not satisfied with the way complaints are determined. The complaints unit has a process for handling such disputes and giving determinations. That appeal process includes an enormous number of safeguards, including a committee of the Parliament and a range of reporting procedures.

The amendment would result in an additional expensive appeal mechanism that would repeat the whole process. If a complainant were not satisfied with the result, he or she would have the right to go to the court and go through the process yet again. That is unnecessary and is not a precedent that has been set with any of the other relevant commissions. The Government will oppose the establishment of an independent review panel. If after three years when the Act is reviewed it is found necessary to make an amendment, that can be done at that time.

I wish to thank a significant number of people for all of their work and good will in the preparation of this legislation, though that good will has not been apparent in the narrow debate today. I thank the departmental people, Chris Bentley, Virginia Neighbour, Leanne O'Shannessy and Alex Goodwin, who have been instrumental in bringing forward the bill. They have spent an enormous amount of time and energy on a difficult task. I formally thank Merrilyn Walton and her staff for the progress that has been made with the bill. I acknowledge the efforts of Clair Petrie of PIAC, who once again tested the ability of the Public Interest Advocacy Centre staff. Clair Petrie has been an intelligent and patient person in her handling of this difficult issue.

I thank the members of the myriad health associated boards who were engaged in the process. I thank those involved with the Australian Medical Association, the Medical Services Committee, and all the consumer groups that have put in enormous time and energy. The list of them goes on and on. I acknowledge also the participation of the union movement. In spite of the fact that for the past few weeks there has been little communication about last-minute amendments, I thank Opposition members for discussing over the years a number of amendments, some of which have been taken on board and included in the bill. In particular I thank the Independent members for the way they have handled this matter. I commend the bill.

Motion agreed to.

Bill read a second time.

Legislation Committee

Dr REFSHAUGE (Marrickville - Deputy Leader of the Opposition) [12.27 a.m.]: I move that:

(1) The Health Care Complaints Bill be referred to a Legislation Committee for consideration and report to the House on such amendments as it considers should be proposed to the Committee of the Whole on the bill;

(2) Such Committee consist of:

(a) Three members supporting the Government nominated by the Leader of the House.

(b) Three members not supporting the Government nominated by the Leader of the Opposition.

(3) The nominations be made in writing to the Clerk of the Legislative Assembly by 18 November, 1993.

(4) The Committee report by 15 April, 1994.

I have moved that the bill be referred to a legislation committee -

Mr SPEAKER: Order! The sessional orders are silent as to debate on the motion, however practice has been not to debate this type of motion, as it is merely a procedural step between stages of a bill.

Question - That the motion be agreed to - put.

The House divided.

Ayes, 44

Ms Allan	Mr Martin
Mr Amery	Mr Mills
Mr Anderson	Ms Moore
Mr A. S. Aquilina	Mr Moss
Mr J. J. Aquilina	Mr J. H. Murray
Mr Bowman	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Mr Newman
Mr Doyle	Ms Nori
Mr Gaudry	Mr E. T. Page
Mr Gibson	Mr Price
Mrs Grusovin	Dr Refshauge
Mr Hatton	Mr Rogan
Mr Hunter	Mr Rumble
Mr Iemma	Mr Scully
Mr Irwin	Mr Sullivan
Mr Knight	Mr Thompson
Mr Knowles	Mr Whelan
Mr Langton	Mr Yeadon
Mrs Lo Po'	
Mr McBride	*Tellers*,
Mr McManus	Mr Beckroge
Mr Markham	Mr Davoren

Noes, 44

Mr Armstrong	Mr D. L. Page
Mr Beck	Mr Peacocke
Mr Blackmore	Mr Petch
Mr Causley	Mr Phillips
Mr Chappell	Mr Photios
Mrs Chikarovski	Mr Richardson
Mr Cochran	Mr Rixon
Mrs Cohen	Mr Schipp
Mr Collins	Mr Schultz
Mr Cruickshank	Mr Small
Mr Downy	Mr Smiles
Mr Fraser	Mr Smith
Mr Glachan	Mr Souris
Mr Humpherson	Mr Tink
Dr Kernohan	Mr Turner
Mr Kinross	Mr West
Mr Longley	Mr Windsor
Dr Macdonald	Mr Yabsley
Ms Machin	Mr Zammit
Mr Merton	
Mr Morris	*Tellers*,
Mr W. T. J. Murray	Mr Jeffery
Mr O'Doherty	Mr Kerr

Pairs

Mr Carr	Mr Baird
Mr Face	Mr Fahey
Mr Harrison	Mr Griffiths
Mr Shedden	Mr Hartcher
Mr Ziolkowski	Mr Hazzard

Mr SPEAKER: The vote being equal, I give my casting vote with the noes and declare the question to have passed in the negative.

Motion negatived.

Consideration called on, progress reported from Committee and leave granted to sit again.

SUPERANNUATION LEGISLATION (FURTHER AMENDMENT) BILL

Second Reading

Debate resumed from 10th October.

Mr J. H. MURRAY (Drummoyne) [12.40 a.m.]: At the outset I indicate that the Opposition supports this bill. It contains a number of technical changes relating to public sector superannuation schemes. One of the major purposes of the bill is to effect changes to the New South Wales schemes to ensure that they comply

with Commonwealth occupational superannuation standards. The changes incorporated in the bill include increased employer flexibility in the method of paying contributions, non-discriminatory treatment of children of de facto relationships and adopted children, and the provision for payment when the primary beneficiary is missing. It provides further that contributions will cease if the contributor has been unemployed for a period of more than two years. The Labor Council and the Police Association support these amendments. Obviously the Opposition concurs with their views. However, I should comment on one matter because the Minister for Industrial Relations and Employment indicated she had some problems with contributions received if the contributor has been unemployed for a period of more than two years. The Minister in her second reading speech stated:

> It is my view, however, that the prescribed two-year limit may indirectly discriminate against women whose work patterns are characterised by breaks in employment that may be for longer than two years. The two-year limit imposed by the Commonwealth may not be long enough to reflect women's work patterns and can therefore create a barrier to the ability of women to save for their retirement, should they wish to do so.

Interestingly, this evening I spoke with a good friend about her work patterns. She was caught up in exactly the same situation. She was a reasonably senior public servant in the State system and she echoed the sentiments of the Minister. In the past two months a constituent of mine has been similarly affected in that he retired at the age of 52 but he was informed that to preserve his benefits he had to work until the age of 55. Therefore, he was outside the two-year period. He was willing and able to provide an extra one year's contributions but, because he was outside the two-year period, his ability to maximise his benefits out of that scheme were circumvented by the regulations. I agree with the Minister that the matter must be further considered. Obviously, it is outside the procedures of this Parliament, but it is important that the Government and the Opposition understand that deficiency. If the Minister pursues that matter with her Federal colleagues, the Opposition will assist her. I support the bill.

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [12.42 a.m.], in reply: I thank the honourable member for Drummoyne and the Opposition for their support. As the honourable member pointed out, basically the bill relates to compliance matters, administrative and technical amendments, and amendments to address particular needs in individual schemes. This legislation is necessary, particularly in relation to compliance matters, to ensure that funds continue to receive the concessional tax benefits sought. The honourable member has raised a relevant concern, and I thank him for his support. I have raised with the Commonwealth that a two-year limit on leave without pay from the work force is unrealistic, particularly for women. I shall continue to pursue this matter with the Commonwealth. In the meantime this amendment is necessary to bring the New South Wales superannuation legislation into line with the Occupational Superannuation Standards Act requirements. The Government will pursue this matter. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

Page 5455

BILLS RETURNED

The following bill was returned from the Legislative Council without amendment:

Summary Offences (Amendment) Bill

The following bill was returned from the Legislative Council with an amendment:

Statute Law (Miscellaneous Provisions) Bill (No. 2)

House adjourned at 12.47 a.m., Wednesday.