

Legislative Assembly

Wednesday, 18 *March*, 1981

Petitions—Questions without Notice—Health Funding (Urgency)—Crimes (Sexual Assault) Bill and Cognate Bill (Introduction, second reading)—National Companies and Securities Commission (State Provisions) Bill and Cognate Bills (Introduction, second reading)—Felons (Civil Proceedings) Bill (Introduction, second reading)—Growth Centres (Development Corporations) Amendment Bill (Introduction, second reading)—Poultry Processing (Amendment) Bill (Introduction, second reading)—Banana Industry (Amendment) Bill (Introduction, second reading)—Forestry (Amendment) Bill (Introduction, second reading)—Farm Water Storages and Bores Subsidies (Amendment) Bill (Introduction, second reading)—Real Property (Amendment) Bill (Introduction, second reading)—Adjournment (Sewage Pollution)—Questions upon Notice.

Mr Speaker (The Hon. Lawrence Borthwick Kelly) took the chair at 2.15 p.m.

Mr Speaker offered the Prayer.

PETITIONS

The Clerk announced that the following petitions had been lodged for presentation:

Forest Management

The humble petition of certain citizens of New South Wales respectfully sheweth:

- (1) That many people who are residents of the North Coast of New South Wales and who derive their income either in part or in whole from the forest industries, and associated industries, and from commerce, grazing, agriculture and transport are concerned that any further extensions of national parks and wilderness areas will have a serious and lasting effect on the economic and social welfare of the region.
- (2) That the timber industry and associated industries are vital to the continued economic well-being of the North Coast region and that any further reduction in the amount of timber available for logging or interference with the responsible management of North Coast forests by the Forestry Commission will jeopardize the continued viability of the forest industries and have grave economic and

social consequences for the region and its inhabitants. Further, that the Government through the Forestry Commission implement the creation of additional hardwood plantations.

Your Petitioners therefore humbly pray that your honourable House will sympathetically look at the problems of all these people in northern New South Wales and beyond and that the responsible Ministers will take whatever steps are necessary to ensure the continued viability of the forest industries so that the people of New South Wales may be supplied with timber.

And your Petitioners as in duty bound will ever pray.

Petition, lodged by Mr J. H. Brown, received.

Cudgen Land

The Petition of certain citizens of New South Wales respectfully sheweth:

- (1) That the proposed resumption of farmland at Cudgen by the Department of Education is a travesty of justice and is in contravention of the interim development order approved by Tweed Shire Council and the Planning and Environment Commission.
- (2) That there are suitable alternative sites for the proposed high school.
- (3) That such action will destroy the environment of Cudgen, and
- (4) That the chosen lifestyle of the owners of the land will be destroyed.

Your Petitioners therefore humbly pray that the proposed resumption of farm land at Cudgen by the Education Department not be proceeded with.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr Boyd, received.

QUESTIONS WITHOUT NOTICE

MAITLAND TRAFFIC

Mr JENSEN: On 5th March the honourable member for Maitland asked me a question concerning the preparation of the environmental impact statement for the New England Highway bypass at Maitland and in reply I said that I would ascertain the necessary information. I inform the House that the task of preparing the environmental impact statement was given to private consultants in January 1980. The Department of Main Roads has continued to impress upon the consultants the urgency of this work. However, the tasks involved are extensive and detailed and, as the honourable member would be aware, the issues are most complex. The Department of Main Roads has been advised that the environmental impact statement will be received from the consultants in May. The statement will be forwarded to the Director of the Department of Environment and Planning and will then be placed on public exhibition.

During the recent by-election campaign, the honourable member for Maitland expressed the view that this matter had become "bogged down in paper warfare". I assure the honourable member that this is not so. The sole cause of delay in the matter was that the environmental impact statement was not received from the consultants. I am certain that the honourable member does not wish shortcuts to be

taken on such a sensitive issue—particularly considering the concern of many residents that their homes, properties and environs could be seriously affected by the choice of bypass route.

I assure the honourable member for Maitland that the Government is fully aware of the urgency of this matter and delays will not be caused by any government instrumentality after the statement is received. Because of the significant public interest in this matter, the Government will ensure that an adequate period of public exhibition will be held to enable interested parties to make their views known. The Department of Main Roads will continue to do everything it can to ensure that the environmental impact statement is placed on public exhibition as soon as possible. I have sought and received, also, the assurance of my colleague the Minister for Planning and Environment that the Department of Environment and Planning will do everything in its power to expedite the processing of this matter.

NEW SOUTH WALES PRISONS

Mr MASON: I address my question without notice to the Premier and Treasurer. Yesterday in this House in answer to my urgency motion about the present prison chaos the Premier and Treasurer said, "Had it not been for the apparent resolution of this matter before lunch, obviously I would have been delighted to give the gentleman an opportunity to debate this matter." As 500 Long Bay warders voted this morning to continue the strike and because of the obvious personal failure of the Premier and Treasurer to resolve this dispute and overcome the mess in the prison system, will he here and now allow the debate he promised?

Mr WRAN: It would be helpful if every *so* often—even occasionally—Opposition members, and especially the Leader of the Opposition, were able to quote a figure or statistics correctly. This morning at Long Bay gaol the first vote on whether there should be a resumption of work by prison officers was counted at 192 for a resumption and 190 against a resumption. That count was challenged and a second count resulted in 192 officers voting for continuing the strike and 190 officers against a continuation. However one adds up those figures, one could not say that this morning 500 **prison** officers at Long Bay gaol voted to continue the strike indefinitely. Within seven minutes or so the dispute will be brought before Mr Justice Dey, and this evening the disputes committee of the Public Service Association will meet to discuss the matter. It is expected confidently that the disputes committee will direct the prison officers to comply with the agreement entered into yesterday by the prison officers branch of the Public Service Association with the Corrective Services Commission. It would be prudent for the House to await the outcome of the proceedings before Mr Justice Dey, to ascertain the action that he proposes to take, and to see what develops tonight and tomorrow. In the light of those further developments it is not by any means inconsistent with what was stated yesterday to say frankly that the House should wait and see.

CUMBERLAND OVAL REDEVELOPMENT

Mr WILDE: My question without notice is directed to the Minister for Planning and Environment. Has the Minister's attention been drawn to claims that reports from a number of government departments and the Heritage Council relating to the redevelopment of Cumberland oval were not circulated to the members of State Cabinet? Will the Minister inform the House whether those claims are correct?

Mr BEDFORD: I say unequivocally that the claims are not correct. The Department of Lands through its Minister made a submission to Cabinet about the redevelopment of Cumberland oval. The reports of each of the other departments involved and of the Heritage Council were circulated to members of Cabinet. I should add that a submission from the National Trust, which is not a statutory body, was also circulated. Normally I would not refer to documents that have come before Cabinet but, because of the persistence of the false assertion, I have approached the Premier and Treasurer, who considers it proper that I should refer to the documents in this instance.

LOGGING AT WASHPOOL

Mr PUNCH: I direct my question without notice to the Minister for Planning and Environment. Why was the submission on the Washpool logging proposal by the National Parks and Wildlife Service accepted as a late submission only on Monday of this week well after the expiration of the longest period—seventy days—allowed for submissions in the history of environmental impact statements? Does the Minister's decision to order the independent review so soon after submissions closed show a total disregard for all submissions prepared? Is it an admission that he intended **all** along to take that delaying action? Does not the review go beyond the provisions of section 113 (5) of the Environmental Planning and Assessment Act, which allows only for a departmental examination of the environmental impact statements and submissions, and does not allow for the introduction of outside academics to turn the review into a *de facto* commission of inquiry to promote further delay of a decision?

Mr BEDFORD: The response of the National Parks and Wildlife Service to the environmental impact statement was received eight days later than the cut off date that was fixed by the Forestry Commissioner. The Leader of the Country Party raised the matter of delays. I could easily have decided that the twenty-one days provided for in the Act should be counted from the receipt of the response to the environmental impact statement. The fact that the report of the National Parks and Wildlife Service was submitted eight days later than the date set down by the Forestry Commissioner was overlooked, and at that point action was taken to draw together the documents necessary for the matter to be considered by the Department of Environment and Planning in accordance with section 113 (5) of the Environmental Planning and Assessment Act.

The Act provides for the department to extend the time for receiving submissions, and to call on any advisory service that it considers necessary in order to clarify a situation. It is impossible at this stage to indicate what other organizations might be called upon to assist the department to arrive at the decision as submissions that have been received on the environmental impact statement have indicated a wide range of interests and conflicting information presented, if I might put it this way, as fact. On the one hand a person has given a forecast of the cubic metres of logs to come out of the area and his assessment of the possible period of life of the forest being logged. On the other hand, expert witnesses have expressed completely opposing views. In the circumstances the Government and the people of New South Wales should have all the facts available before a decision is made. It may be necessary to seek further advice to try to resolve the differences of opinion. I assure the Leader of the Country Party that the department has not used delaying tactics. Indeed, had the department wished, it could have extended the time for the presentation of the submission of the National Parks **and** Wildlife Service.

CAMDEN DIRECTION SIGNS

Mr ANDERSON: I address a question without notice to the Minister for Local Government and Minister for Roads. Is the Minister aware that there are no signs indicating the direction of Camden on the section of the F5 freeway south of Campbelltown? Is the Minister aware, also, of the historic importance of Camden and the large number of tourists who visit the area daily to view the historic features of the town? Will the Minister advise the House whether signs can be installed at the freeway interchange near Maldon to advise motorists proceeding from the south how to reach Camden?

Mr JENSEN: I agree that Camden contains important evidence of our history. I contend that it has an important future too—a future that will be advanced by the vigour and dedication of the honourable member for Nepean, who constantly raises with me matters affecting his constituents. It is desirable that direction signs to Camden should be placed at Maldon, and I undertake to direct the Department of Main Roads to ensure that appropriate signs are located there.

CARSTAIRS BUILDING ADVISORY SERVICES

Mr ROZZOLI: I direct a question without notice to the Minister for Consumer Affairs. Why, in view of the comprehensive powers of the Department of Consumer Affairs to investigate unfair and fraudulent trade and commercial practices, has the Minister's Department failed to take any action against the ~~firm~~ known as Carstairs Building Advisory Services?

Mr EINFELD: The organization known as Carstairs Building Advisory Services is building up quite a record in this House. The honourable member for Hawkesbury has raised the matter on three occasions and has received four answers to his inquiries. The proprietor of the firm has served a term of imprisonment. I do not know how long the honourable member considers that person should have been incarcerated but I consider that he has been dealt with by the department quite satisfactorily in the sense that if the department is able to obtain the further information it is seeking, it will deal much more comprehensively with him.

WOY WOY POLICE STATION

Mr O'CONNELL: I direct a question without notice to the Minister for Police and Minister for Services. Does the Minister know that the Umina–Woy Woy area, which is in my electorate, has the largest population of any area outside the metropolitan areas of Sydney, Newcastle and Wollongong? Is the Minister aware that the area is served by a police station at Woy Woy that is manned for only sixteen hours a day? When may the residents of the area expect to be afforded treatment equivalent to that available to some minor country towns, that is, to have the Woy Woy police station staffed and manned for twenty-four hours a day?

Mr CRABTREE: It is true that the area in question is developing rapidly. That is because of the progressive policies of the Government. In many of these areas difficulty has been experienced in extending services. The other day figures were given to me showing that since the Government came to office it has increased the police strength by more than 865 men and women. I assure the honourable member for Peats that his positive representations, made over many months, are being considered by

the strength review committee, which was dissolved by the former Government and has been re-established by this Government. As soon as men are available, Umina will be given favourable consideration.

HOSPITAL CASUALTY DEPARTMENTS

Mr SINGLETON: I address a question without notice to the Minister for Health. Did the Minister intimate recently that patients should not attend casualty departments at hospitals when popular television shows are being screened, implying that the doctors would be watching those shows? Did those comments cast serious reflections on salaried doctors who work in hospital casualty departments? As the Minister knows that the statement he made was not true, will he withdraw it and apologize to the doctors concerned?

Mr K. J. STEWART: There is no doubt about the honourable member for Clarence and other Opposition members; they have their priorities right so far as hospital and health services are concerned. The honourable member for Clarence probably does not know that last week I attended a conference of Australian Ministers for Health. At that conference, on behalf of the State of New South Wales, I endeavoured to persuade the federal Government to restore funding to hospitals and to introduce a formula other than the tax reimbursement scheme.

Mr Dowd: Answer the question.

Mr K. J. STEWART: I am getting to it. By the tax reimbursement formula the hospitals in New South Wales will lose \$91 million. The honourable member for Clarence, on behalf of the Opposition, has asked me about a remark that appeared in the "Tempo" column of the Sun *Herald* last Sunday week, which was a frivolous remark made by me. It was not part of the interview. The remark was one of three anecdotal stories I related to the press reporter and which he found humorous. He used the quote and, as it appeared in "Tempo" column, I can understand the concern and indignation of some medical officers who felt that their reputations—

[Interruption]

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

Mr K. J. STEWART: I can understand that some medical officers felt that their reputations had been besmirched. Because of that I have no hesitation in apologizing. I have no hesitation in saying also that the remark did not indicate my attitude. It was not part of an answer by me concerning resident medical officers or anything of that nature but rather part of an anecdotal story I related during the interview, which took place over a long period and was tape recorded. For the remark to be used by the Opposition as an intimation of my attitude to resident medical officers would be somewhat similar to—

Mr Mason: The Minister has taken ten days to apologize.

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

Mr K. J. STEWART: It would be similar to taking the Irish jokes I told yesterday, St Patrick's Day, as indicative of my attitude to the Irish.

HEALTH FUNDING

Urgency

Mr CURRAN (Castlereagh) [2.34]: **1** move:

That it is a matter of urgent necessity that this House should forthwith consider the following motion, viz.:

That this House condemns the Commonwealth Government for its severe financial cutbacks for health and hospital services in New South Wales which have led to forced reductions in all health care services and placed unnecessary hardships on hospital patients. This House calls on the Commonwealth Government to reverse its financial policies in relation to health services and hospitals.

This matter is urgent because the Commonwealth Government has made it known that the hospital cost sharing agreement, which expires on 30th June, 1981, is not to be renewed and the Commonwealth will fund hospitals under a different formula. It is a matter of urgent necessity because, despite the importance of this matter, the federal Cabinet is deadlocked and cannot agree on the method of funding that will be introduced after 1st July, 1981. There has been talk of funding through, first, a block grant system, and second, absorption into the tax sharing formula. This matter is urgent because at the Australian Health Ministers' conference, which was held in Perth last week, the federal Minister for Health, the Hon. M. J. R. MacKellar, was unable to give the States any information regarding future Commonwealth funding. At the same time Mr MacKellar accused the States of mismanagement in their hospital services and he accused New South Wales, in particular, of having too many hospital beds for its population.

Mr McDonald: The sum of \$44 million was overspent.

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

Mr CURRAN: It is a matter of urgent necessity because, in addition to the problems confronting the hospital services through Commonwealth parsimony, over the past three years there has been reduced involvement by the Commonwealth Government in community health services and the school dental health programme. The matter is urgent because these reductions have forced the New South Wales Government to provide money that was previously provided by the Commonwealth Government and to review projected programmes as a result. Finally, it is a matter of urgent necessity because all these matters are vital to the health and well-being of the people of New South Wales. It behoves members of this Parliament unanimously to raise their voices in protest against the federal policy and to demand a rightful share of the taxes taken from the people of this State.

Mr WRAN (Bass Hill), Premier and Treasurer [2.37]: I doubt that any member of this Parliament would not be concerned about the present federal Government's attitude to hospitals and health services. Therefore, the New South Wales Government has no hesitation in indicating its preparedness to agree to urgency and to allow a **fullscale** debate—a debate that no doubt will reflect the attitude of the members of the Liberal Party and Country Party, **who** make up the Opposition in **this** Chamber. I hope that all **right-minded** members of this House will support the honourable member for Castlereagh in bringing this motion before the House on a matter of concern to literally millions of people in New South Wales. Urgency is agreed to.

Motion of urgency agreed to.

Suspension of Standing Orders

Suspension of so much of the standing orders as would preclude consideration of the motion forthwith agreed to on motion by Mr Curran.

Motion

Mr CURRAN (Castlereagh) [2.41]: I move:

That this House condemns the Commonwealth Government for its severe financial cutbacks for health and hospital services in New South Wales which have led to forced reductions in all health care services and placed unnecessary hardships on hospital patients. This House calls on the Commonwealth Government to reverse its financial policies in relation to health services and hospitals.

It is a matter of great urgent necessity that this House gives serious consideration to the gravity of cutbacks in finance for this State's health system, which will soon be announced by the federal Government. It is no secret that the federal Government plans to withdraw from the 50-50 cost sharing agreement for the funding of public hospitals and health services. That agreement was introduced by a federal Labor Government in 1975. This matter is extremely urgent because we are talking about services that protect the health and welfare of the people whom we in this House represent. Naturally, I am extremely concerned about the effect of federal cutbacks in health funding within my own electorate of Castlereagh. In that electorate hospitals are situated at Bourke, Cobar, Brewarrina, Nyngan, Warren, Coonamble, Gilgandra, Coonabarabran and Baradine. In the newly structured electorate of Castlereagh, which I shall have the honour of representing in this House after the next election, important hospitals are situated at Dunedoo, Gulgong, Mudgee, Coolah, Cassilis and Gunnedah.

If the Opposition is sincere in its concern about hospital cutbacks, it should get its Country Party colleagues in the federal Parliament to get off their rumps and come to some agreement with New South Wales to share, on a \$-for-\$ basis, the health costs that will be incurred in this State in this financial year. The federal Government has reneged on its cost sharing agreement with the States and that will have an adverse effect on each of the hospitals I have mentioned as well as all the other hospitals that make up the 280-hospital system in New South Wales. It is of urgent necessity that this matter be considered and for the strongest possible protest to be made by this Parliament in a final effort to dissuade the federal Government from wrecking the 50-50 cost sharing agreement, which on current figures will have the effect of robbing this State of approximately \$90 million.

This matter is urgent because, as well as the effects the cutbacks will have upon our hospital system, there will be serious implications for this State's community health services and its school dental service. I need hardly add how vital those services are to the people of this State, and particularly to those who live in the isolated **communities** that characterize the electorate I have the honour to represent. The matter is urgent because in about ten days the federal Government will announce a policy that will terminate the 50-50 hospital cost sharing agreement. Moreover, the federal Government will unveil a plan whereby the various States are likely to have forced upon them substantially reduced financial resources to run their health systems.

The federal Government is considering two strategies to help it wipe its hands of what was previously a fair and equitable cost sharing agreement. One plan is to absorb health finance into general tax sharing arrangements between the **Commonwealth** and the States. This will remove completely the Commonwealth's responsibility for health services in Australia. It will be up to State governments to find their

resources for health, in competition with other areas of need such as education, transport, water resources and roads. The other plan that emerged from the Fraser cabinet room is a block grant to the States for health specifically. This is the lesser of two evils because under that plan the Commonwealth would acknowledge a *continuing* responsibility for the health of the nation.

This matter is of urgent necessity, for unless there is a last minute change of attitude by the Fraser Government, the hospital and health care services of this State will be placed in great jeopardy. It is possibly one of the most meaningful and urgent issues ever to be discussed in this House. I shall go into a little detail on the implications of the schemes that are being hatched in Canberra, which are causing great concern to me, to the people I represent and to the Minister for Health. The Minister returned recently from the Perth conference of Ministers for Health, where he led the fight against the federal Government's proposals to impose these financial restrictions on the States.

The urgency of the motion is reflected in the fact that the New South Wales Minister for Health, in his condemnation of the federal proposals, had vigorous and trenchant support from each and every Minister for Health at that conference, irrespective of their political persuasions. The cynicism of the federal Government is revealed by the fact that the federal Minister for Health said he was attending the conference in a listening role. But no honourable member would doubt that the plan to emasculate the States' health services had been hatched long before that Minister went to Perth, for it is characteristic of the Fraser Government not to negotiate with the States but to tell them of its decisions, which are made on a unilateral basis—and always to its own advantage.

This motion is urgent because at the Perth conference the five Ministers representing Liberal Party-Country Party governments and the two Ministers representing Labor governments unanimously agreed to ask the Commonwealth Government to release other funds to help maintain the States' hospital services this year. The motion is urgent because those Ministers insisted that they be consulted before any major decision was taken on the **Jamison** report, which was in the hands of the federal Government as early as last December, details of which were released only recently.

The Ministers were unanimous in adopting the following principles: first, that the Commonwealth provide a share of funds to maintain at least the existing level of services with *minimal* conditions attached; second, that there should be consultation to encourage **people** to take out health insurance or make an equitable contribution to the cost of health services; third, that there should be no means test at the point of service in hospitals and that hospital charges should be uniform and indexed to cover increasing costs; fourth, that health insurance should cover bed charges; and, fifth, that there must be consultation between the States and the Commonwealth on health insurance. This unanimity among Ministers for Health was in stark contrast to the hedging by the federal Government and that Government's unwillingness to communicate. The matter is urgent because of the great impact that the lack of communication on the part of the federal Government will have on this State. I intend to dwell briefly on the scheme that is likely to emerge from Canberra.

Under the tax sharing option New South Wales would lose \$91 million each year if State tax shares are maintained at their present level. That amount is equal to the entire health budget for Tasmania or the cost of running Royal Prince Alfred Hospital. The other proposal is that the States be given block grants for health expenditure. That may sound reasonable, but if those grants are made arbitrarily *without* negotiation between the Commonwealth and the State on the basis of the health needs of the people, health services face a bleak future. The health planners of the future

will be the computers of Treasury officials. I do not know how much they care about the health of the people but I know that their boss, the Prime Minister, does not care at all. Could it be that the motives of the federal Government under the Rt Hon. J. M. Fraser are to prop up the private health funds, expand the private hospital system and, in so doing, underwrite the high incomes of the medical profession? In other words, if people want hospital and medical attention, they will damn well pay through the nose for it.

This matter is urgent because of the serious implications for the health and hospital system if the Commonwealth Government withdraws from the public hospital and health services sector. Integration of health service components such as nursing homes, private hospitals and health insurance, with the public health services operated by the State will be possible only with the honest co-operation and involvement of the federal Government. The Rt Hon. E. G. Whitlam recognized that fact when he introduced the cost sharing agreement in 1975, enabling beneficial changes to take place across this nation in health care and hospital administration. That agreement virtually brought a new era into the health field, namely, community health. I have no doubt that my colleagues on this side of the House will enlarge on that aspect later in this debate.

The matter is urgent because the livelihood of employees in our hospitals and health care system is under threat. I remind honourable members that this State could lose \$91 million each year under the new schemes being hatched by the Fraser Government. Honourable members will realize how true that is when I say that approximately 80 per cent of the cost of running a hospital is salaries and wages. The implications of savage cutbacks in health expenditure are frightening. The House should be made aware of some of the terrible decisions facing the Government over the next 12 months on hospital services. Members of the Opposition should know what their federal colleagues are doing. They would be wise to join the Government in this protest, for their electors will be severely affected. Under the Commonwealth Government's present policy new hospitals can be opened and new health services introduced only with equivalent closures of existing services. In other words, the growth factor is to be nil.

Mr Mason: The Whitlam Government can be blamed for that.

Mr SPEAKER: Order! The Leader of the Opposition has his name down to speak in this debate. I am sure he can contain himself until he receives the call.

Mr CURRAN: Another important aspect of the restriction on growth is that an ever increasing proportion of this State's population is becoming elderly. Under the policy imposed by the Commonwealth at present, new hospitals and health services can be opened only if there are equivalent closures of existing services—in other words, an absolute no-growth factor. That factor has serious implications when one bears in mind that the population of New South Wales in the past year has increased by nearly 100 000. I repeat, an important aspect of this no-growth restriction is that an ever-increasing proportion of the population of New South Wales is coming into the category of elderly and therefore will need more health care than others. By the end of the century those beyond the age of 50 will be a majority of the community and will need health care three times greater than will other sectors.

Migrant health is another important aspect of the present Government's administration. Only last week my colleague the member for Burwood launched a pilot migrant health scheme at Western Suburbs Hospital. It is sad to think that such schemes would be greatly threatened by the new federal proposals. It is urgent and vital that this House should unanimously support the strongest condemnation of

the federal Government's failure to comprehend the needs of the health and hospital services of this nation and the need for its partnership with the States in these vital services.

Mr SINGLETON (Clarence) [2.57]: It is incredible that the Government **should** seek to put a motion of this type before the House today when all about us in this State the Government is in trouble over health care because of its mismanagement. One can come to no other conclusion than that the Government is downgrading health care in framing its budgets. I shall give the House a few figures to prove beyond doubt that the Government is far more interested in the socialization of industry than in the health care of the people of New South Wales.

Mr Schipp: It wants to socialize medicine.

Mr SINGLETON: My colleague the honourable member for Wagga **Wagga** reminds us of the threat of socialization of health care. The Government's policy has caused a problem in handling casualties, for example. The Minister has been reported as saying that if the casualty departments of hospitals are unable to handle **patients**, he will require doctors to visit their homes to treat them. That attitude surely fosters a move away from the health care system—a system that had the family doctor at its centre.

The Minister for Health is encouraging people to queue in hospitals to see a doctor who has probably never examined them before and no doubt will never **see** them again. Individuals get to know their family doctors over many years, and those doctors are the family's own choice. Indeed, I have been visiting the same doctor since 1950. It is a shame that the Government has encouraged a move away from that concept, for the prime consideration in health care is that the **doctor should** have a thorough knowledge of a patient's background. That cannot occur through the sporadic type of care offered in the present hospital system.

I wish now to deal with inflation and budget allocations in order to dispel the **furphy** on which the motion moved by the honourable member for Castlereagh has been based in an effort to get the Minister for Health off the hook. The Minister is certainly on the hook. He will stay on the hook, and it will bite deeper. He will escape only if he is removed from office by the Premier and Treasurer because of the poor job he has done—even though his stories may be funny.

Mr Schipp: They do not come over as funny on television.

Mr K. J. Stewart: The honourable member for Clarence should hear the story about himself.

Mr SINGLETON: The Minister for Health will get his chance to speak and Opposition supporters will listen intently. In 1976–77 the rate of inflation was 13.8 per cent; in 1977–78, 9.5 per cent; in 1978–79, 8.2 per cent; in 1979–80, 10.2 per cent; and in 1980–81 it was 10.5 per cent. Those figures have been provided by the Australian Bureau of Statistics, so presumably they are close to the exact figures. In that period the total New South Wales Budget income has increased by 70.2 per cent. In 1975 the Budget was \$2,720,279,000; in 1979–80, \$4,093,740,000; in 1980–81, \$4,630,123,000. In the same period funds committed by the Wran Government to health care in New South Wales have increased as follows: in 1975–76, \$433,483,000; in 1979–80, \$581,014,000; and in 1980–81, \$659,610,000. That represents an increase of 52.17 per cent. The Minister for Health and the honourable member for Castlereagh have said that the federal Government **is** totally to blame

for cuts in health care funding in New South Wales. That is complete hypocrisy. The Budget figures reveal that whereas the total Budget figures have increased by more than 70 per cent, health care has increased by only 52 per cent.

Of course, one has only the Government's figures set out in the Budgets to use in determining the amount of increase or decrease. Undoubtedly, based on inflation rates, for the year 1980–81 expenditure on health care should have been \$711,717,463. That is a reduction of \$52,107,463 compared to the expenditure on health care for 1975–76, which was the last year of the former Liberal Party–Country Party coalition Government. That \$52 million represents a reduction of 7.9 per cent in real terms. The Minister for Health has failed to obtain from Cabinet a fair share of the budgetary moneys available to this State for allocation to various departments within his administration. Health care available in New South Wales has been seriously neglected by the Wran Government. I was listening to the honourable member for Castlereagh **talking** about what the **Whitlam** Government had done for health care in **Australia**. I shall not say that everything the **Whitlam** Government did was of no benefit, as that would be wrong; some of its innovations were beneficial to many persons.

One must have regard to the problems that were left in New South Wales—in fact throughout the nation—by the Whitlam regime. Though the Whitlam Government was not in office for long, it will take many years to repair the economic fences that that Government tore down. We well know that during the Whitlam era the annual rate of inflation increased from 3.5 per cent to 19 per cent. We know also that the New South Wales Government is pushing for a 35-hour week, which in many spheres is escalating costs at a tremendous rate. In the past year the citizens of New South Wales have witnessed the spectacle of power rates increasing by almost 20 per cent. The honourable member for Castlereagh has the hide to blame someone else when it is the actions and the activities of the New South Wales Government alone that are basic to the problems facing the State and causing the greatest movement of people ever known to other parts of Australia. They are moving out of New South Wales in droves. A graph published recently reveals the biggest movement of people of all time. No doubt this movement has contributed in a small way to the reduction in the number of unemployed in New South Wales, which is reflected in the unemployment figures that are published from time to time.

People have left New South Wales for greener pastures. I have no doubt that they have found greener pastures under a National Party–Liberal Party Government in Queensland and under a Liberal Party–Country Party Government in Western Australia. Good luck to them. It is deplorable that New South Wales, the premier State in Australia, has to be subjected to the Government's actions. In its endeavours to blame the Commonwealth Government for the cutback in health services, the Government does not mention the many other activities in which it is engaged. I should like to know from where the funds are coming for the Government to become involved in oil refineries, a business that would be better left to private enterprise. I want to know also from where the funds are coming to enable the Government to be involved in the construction of a coal loader at Newcastle, for which private enterprise is happy to put up the funds, to manage it and meet all other necessary costs. We know that whenever government takes over these types of commercial activities they are failures.

Mr Schipp: That is what socialism is all about.

Mr SINGLETON: That is socialism. The Government is moving into those activities and seeking to blame the Commonwealth Government for not providing sufficient funds for essential services. The New South Wales Government has reduced by 7.9 per cent in real terms the budget allocation for health services when compared

with the allocation by the former Liberal Party–Country Party Government. Tremendous damage is being done to health care services throughout New South Wales, more particularly in country areas. Recently the hospitals at Nabitac and Nelson Bay were closed.

Mr Taylor: Also Coolamon.

Mr K. J. Stewart: Coolamon has not closed. Private enterprise owned Nabitac and Nelson Bay.

Mr SINGLETON: Honourable members should ask the Minister for Health to tell a funny story. He is good at doing that.

Mr K. J. Stewart: I am listening to one now.

Mr SINGLETON: The Minister's funny stories are usually reported in the newspapers. Not many of us can claim that. Hospitals are being closed in country centres of New South Wales and almost every hospital in the State has had serious funding cuts. They are attributable to the Government's economic mismanagement. Budget allocations are not made available to hospitals until halfway through the year, in about December, and the hospitals are then told that they have overspent their allocation for the first six months of the financial year. No one can manage a major undertaking with full efficiency when the budget allocation is not known for the first half of the year. Major hospitals including that at Tamworth have had their budgets for the last four months of the financial year cut by as much as \$250,000. That surely demonstrates the mismanagement by the Minister and the Government of the State's health care services and the public hospitals in particular. Many of the Government's approaches to the field of health care cannot be justified. Today some members of the staff of Parramatta Hospital held a demonstration outside Parliament House. I pay tribute to those persons for the orderly conduct of their protest and the responsible way they left the hospital. It was not understaffed and no patients at the hospital were denied proper care. The reason for the demonstration was the Minister's announcement that Parramatta Hospital is to close at the end of 1981.

Though Parramatta Hospital is to close at the end of this year, four years ago the Government spent millions of dollars on revamping the hospital. It is incredible that such economic mismanagement can occur. The honourable member for Castlereagh is well known in this House for the degenerate way he condemns Opposition members in personal terms. He is not game to offer the criticism personally; he arranges for another backbench member on the Government side of the House to raise the matter. Then he makes a snide attack. At the next State elections we shall find out how good he is. The honourable member for Burrendong will clean him up.

It ill behoves the Minister for Health to condemn the federal Government, for his own Government has failed miserably to come to grips with health care in New South Wales. Recently I asked the Minister for Health a question about the aged and infirm in our community. He gave a frivolous reply; he did not come to grips with the problem I raised. The Minister asked me to give him the names of the persons involved. How could I go round New South Wales checking on the number of aged people who recently had broken their false teeth? Recently an elderly person told me that she had tried to repair her teeth with Tarzan's grip because someone at the local hospital said that they could not help her until the end of the financial year.

That is an example of the Government's approach to health care. Another dear old lady who lives close to Parliament House telephoned me recently and asked that I return her call. She suggested that I should allow the telephone to ring for a reasonable time as it would take her some little while to get to the phone because she

was almost crippled. She had sought to have treatment for her condition at a public hospital, but was told to return to the hospital towards the end of June and something might be done for her then.

Mr Caterson: That is a disgrace.

Mr SINGLETON: It shows the shameful mismanagement and cowardice of the Government in failing to face up to its responsibility to provide adequate health care in New South Wales. The figures show that the Government has ripped off funds to pay for its socialist policies in New South Wales. The motion before the House does nothing for the Government or for health care. For months honourable members have heard the Minister for Health complain about the lack of federal funding. He has tried to build up a state of hysteria.

Mr McDonald: That was to cover up his own mismanagement.

Mr SINGLETON: That is so, and to cover his failure to come to grips with the problems of hospital care in New South Wales. On 22nd February under the headline "State health cuts feared" the Sun *Herald* reported as follows:

Pensioners may have to be charged for treatment in public hospitals if the federal Government abandons its **50-50** hospital cost-sharing agreement with the States, the New South Wales Health Minister, Mr Stewart, said yesterday.

The Minister for Health, the Premier and Treasurer and all Government supporters should look to their total budget to fund health care services, education and other community services that they hold in trust for the people of New South Wales. They are the real bread and butter issues for Australians. The Government should **look** to its total budget to provide the necessary expenditure on essential services and not rely upon tied grants from the federal **Government**. I do not agree with tied **grants**. The three tiers of Government should be the masters of their own destinies and have the right to determine where their funds should be spent. That is the Country Party's policy, and I believe it to be the policy of the Minister for Health. He would not want the Prime Minister to dictate where every cent of the State's Budget should be spent.

In the near future New South Wales will experience a dramatic shortage of nursing staff, for which the Minister for Health and the State Government will be responsible. In **1975**, **4 762** nurses started training in New South Wales hospitals. In **1976** the number rose to **4 871** but in **1977** it fell to **4 694**. In **1978** it dropped back to **4 097**, and by **1980** the estimate was down to **3 068**, or a loss of about **1 800** jobs formerly available to young persons leaving schools in New South Wales and seeking careers in this profession. The sad story is that the Government has denied **1 800** young people jobs in the nursing profession of this great nation. That fact must be ranged alongside the dramatic reduction over the years in the intake for teacher training—a cutback from **5 038** to **365**, or a reduction of **4 673** positions.

Perhaps this State has too many schoolteachers, but what did the Government do to pick up the slack? Government supporters ought to hang their heads in shame. I notice some of them are. They know that what I am saying is true, and the message is gradually getting through to the people of New South Wales that since May **1976** they have been taken for a ride by the Premier and Treasurer with his airy-fairy promises. For all these reasons the Opposition moves the following amendment to the motion:

That the question be amended by leaving out all words after the word "condemns" with a view of inserting in lieu thereof the words "the State Government for its severe financial cutbacks for health and hospital services

in New South Wales which have led to forced reductions in **all** health care services and placed unnecessary hardships on hospital patients and confirms that health care is a basic responsibility of State Governments".

I believe that every Government supporter would agree with every Opposition member that health care is a responsibility of the State governments.

Mr Cleary: Does the honourable member contend that the federal Government has no responsibility in health care?

Mr SINGLETON: Funding and taxation policies are a responsibility of the federal Government, but health care is the responsibility of the State Government. The New South Wales Government is lurching from one crisis to another. In this the International Year of Disabled Persons it is interesting that multiple sclerosis research funds have been reduced from about \$48,000 in 1975–76 to about \$18,000 in the current financial year. Researchers have made valuable breakthroughs in the treatment of multiple sclerosis in its early stages. Doctors are now able to treat sufferers of multiple sclerosis in its early stages by the transfer factor treatment. A paltry \$50,000 is required to set up another operating unit for that purpose in this State. Early-stage multiple sclerosis sufferers have to wait for about four months to receive the treatment. **As** a consequence those people are sliding downhill and if their condition deteriorates too much the doctors will have no hope of helping them.

The transfer factor treatment must be given in the very early stages of the onset of the disease, but patients have to wait up to four months because the Government will not make \$50,000 available to establish another unit. I hope the Minister for Health will give serious consideration to providing a special grant of \$50,000 and the necessary financial support to enable a scientific officer to prepare a transfer factor treatment programme and train nurses to organize and carry out that treatment programme in this the International Year of Disabled Persons. The Opposition totally disowns the motion moved by the honourable member for Castlereagh. Responsibility for health care lies exclusively with the State Government, which must manage its finances so that the health standards of the people of New South Wales are not impaired.

Mr ROBB (Miranda) [3.25]: I support the submission of my colleague the honourable member for Castlereagh. On behalf of the Government I completely reject the amendment moved by the honourable member for Clarence. The Opposition has failed to recognize that it is the responsibility of the federal Government to provide health funds. Funding is the basis of the debate. I should like to point to areas in which the Commonwealth Government's tight-fisted approach to the release of funds for health services has had disastrous effects on the provision of those services in New South Wales. Health authorities in this State have been compelled to cut back services further and further. The stage has been reached where no further cutbacks can be made. Two other services to which funds from the Commonwealth are directed, that is, community and dental services, have unjustly suffered similar cutbacks in Commonwealth funds.

Originally, funding for the community health programme was on the basis of a 100 per cent allocation by the federal Government towards the cost of capital development, and a 90 per cent contribution towards recurrent costs. Under this formula, the State Government was required to provide 10 per cent of the recurrent costs associated with any project approved under the programme. Similarly, **any** voluntary agency providing a community health service approved under the programme was also required to raise the statutory 10 per cent of recurrent costs. **It** was on that basis that most of the voluntary agencies agreed to develop their services in accordance with the terms of their participation in the programme.

That formula continued to function until 1977–78, when the federal Government, acting unilaterally without consultation with the States, reduced its contribution to 75 per cent of recurrent costs and 90 per cent of capital costs, thus requiring the State Government or the voluntary agency, whichever was responsible for funding the remaining costs, to provide the additional amounts. What cost New South Wales 10c to get the original Commonwealth dollar now costs the State a dollar for each dollar provided by the federal Government.

For the past four to five years the community health programme has been faced with the predicament of having insufficient funds to maintain services. Last year it was announced at the Premiers' Conference in June that the Commonwealth Government would not increase funding for the community health programme in 1980–81. This would have meant a cutback in real terms of approximately 10 per cent, which would have meant an average loss of 200 positions. Last year the federal Government told the Premiers' Conference that it would reverse its decision, after it became obvious that not only would staff need to be retrenched but also services already stretched to meet existing demands would have to be withdrawn.

The 1980–81 cost-shared budget for the New South Wales community health programme was finally determined at \$45 million. That sum includes funds for the voluntary organizations. In 1979, because of the already insufficient funds, a ceiling was established so that only 1940 of the approved 2 295 positions in the community health programme could be filled. The federal Government's allocation was supposed to be sufficient to allow the programme to continue with a cutback staffing level of 1 940. In fact, funds for 1980–81 for community health of \$25 million are \$3 million less than those for community health in 1976–77 despite increased inflation and cost rises. Since July 1980, the staffing level has varied from a low of 1 883 to a high of 1931.

Mr Cameron: On a point of order. A large number of rulings have been given concerning the reading of speeches. You, Mr Speaker, will be aware of parallel rulings given at various times by Mr Speaker Levy, Mr Speaker Clyne, Mr Speaker Maher and yourself, to the effect that speeches may not be read, but copious quotes or reference to notes are allowed. A further decision by Mr Speaker Ellis is to the effect that although reference may be made to copious notes, particularly long portions of such notes may not be read. A firm ruling, given by Mr Speaker Weaver and Mr Speaker Clyne, is to the effect that it is not parliamentary practice to allow the whole of a speech to be read. The honourable member for Miranda has not once lifted his eyes from a prepared text, and he has been reading every word of it. Such a practice infringes the basic rule—that is, that it could enable people outside the Parliament to have a voice here by preparing speeches for members to read. I submit strongly that the honourable member for Miranda is grossly infringing previous rulings on this matter.

Mr SPEAKER: Order! I am sure that the honourable member for Miranda is aware of the accepted practice. What the honourable member for Northcott has said is quite true; it should not be possible for people outside the House to prepare speeches and to have honourable members read them here. I know that the honourable member for Miranda is more honourable than to do that. I am sure that he is reading his own copious notes. It may be that he is looking down because Opposition members are not paying attention. Doubtless the honourable member for Miranda will endeavour to comply with the wishes of the honourable member for Northcott in this respect.

Mr ROBB: The subject being debated is complicated, and it requires reference to many statistics and costs. Though I have been using copious notes for that reason, I shall endeavour to refrain from continuing to do so. In 1973 the federal Government

advised that the States would be assisted in the development of school dental programmes according to certain common features. That Government offered to fund the scheme as to 100 per cent for therapist training, 100 per cent for capital costs—such as those involved in establishing clinics—and 75 per cent for field costs. The Commonwealth Government stated also that it would introduce legislation to cover the scheme. The Sylvania dental clinic is located in the Miranda electorate. That clinic caters for about 600 patients a week. Those patients are not subject to a means test. The clinic also provides education opportunities for persons to enter the dental profession. The clinic, which is regarded as one of the best dental clinics in New South Wales, was set up in 1979 with grants from the Whitlam Government. The Sutherland hospital, at Caringbah, is also located in my electorate. I had the privilege yesterday of attending an open day at the Caringbah community clinic, where I was afforded the opportunity of seeing some of the work that that wonderful organization is doing for the 171 000 people who reside in the Sutherland shire.

Mr Mason: No hospital in this State has been more abused by the Minister for Health than has the Sutherland hospital. The honourable member for Miranda has stood by and done nothing about that situation.

Mr DEPUTY-SPEAKER (Mr Quinn): Order! If the Leader of the Opposition seeks the call later he will get it.

Mr ROBB: The services provided at the Caringbah community clinic cover adult mental health and child and family health. The clinic also contains a drug and alcohol advisory unit and community nursing facilities, and it is responsible for baby health centres at Miranda, Sylvania, Gymea and Caringbah. Because of the increasing demand for a baby health centre in the area, the clinics at Gymea and Miranda are extending their operations to four and a half days a week. A larger population in the Kareela subdivision of the shire and increases in births in the area generally have required the provision of therapy for family groups, marriage guidance counselling and preparation for parenthood classes. More evening classes are being provided at the clinic because of the demand. Chiropractic services and community nursing care services are under threat of being reduced as a result of cutbacks in Commonwealth Government funding. I make no apology for attacking the federal Government for its reductions in the funding of health services in New South Wales. It is apparent to anybody in the community that, since the federal Government dismantled Medibank, health services in New South Wales and all other States have continued to deteriorate.

I pay tribute to the chairman, the chief executive officer and the board of directors of the Sutherland hospital. Those persons have been members of deputations which, together with the Minister for Health and I, have asked that no cuts be made in federal funding so as to avoid the closure of the midwifery training school. In early 1979, following representations to the Minister, it was found possible to retain the pathology unit at the Sutherland hospital. I thank the board for the co-operation it has shown to me since I have been a member of Parliament. I support what the Minister for Health has done in helping to complete the \$19 million building programme, which is well advanced. What concerns me is that difficulties will be experienced in operating the hospital as the result of the reduction in federal funding. The Leader of the Opposition seems to find this subject amusing, but I assure him that the people of the Miranda electorate do not find it funny. I look forward to the co-operation of all honourable members in overcoming the serious problem of deficiencies in federal health funding.

Mr MASON (Dubbo), Leader of the Opposition [3.40]: **This** afternoon honourable members have been treated to a demonstration of the ruthless way the Government treats the fears held by many people in this State. Yesterday in this House I raised, as a matter of urgency, the issue of the crisis situation in the prison system. At that time the Premier and Treasurer said he would solve that crisis. Honourable members were not permitted to debate that issue then, but they now realize that the problem has not been solved. A Labor Premier, more than anyone else in this State, ought to know that the majority by which a vote is carried by trade unionists is immaterial: every trade unionist would be expected to support the resolution. However, the Premier and Treasurer has tried to score a point by saying that only 192 unionists voted for this resolution.

Mr K. J. Stewart: On a point of order. Mr Deputy-Speaker, I submit that the Leader of the Opposition is not addressing his remarks to the debate. He is debating both a question asked in this House earlier today and an urgency motion moved here yesterday. I can understand the honourable member's not wishing to debate a motion dealing with the cutbacks in funds to hospitals brought about by the Commonwealth's parsimony. However, he is not entitled to canvass a decision given here yesterday or a question asked in the House today about New South Wales prisons.

Mr DEPUTY-SPEAKER (Mr Quinn): There is substance in the objection taken by the Minister for Health. I am quite sure that the Leader of the Opposition knows the standing orders, and I ask him to address himself to the motion before the Chair.

Mr MASON: Having broken the facile promises he made yesterday, the Premier and Treasurer now does not want to speak about the number of disgraceful situations affecting the community. Suddenly a put-up motion is moved by the honourable member for Castlereagh, who is in a shaky seat and fighting for his political life. Obviously the House will have to listen to speeches from a number of poor old Labor members. The poor old member for Miranda spoke in the debate because he is still an unknown. Obviously, we are to hear from the poor old members for **Armidale** and **Albury**. Those members have to be bolstered up, so they are to be given the opportunity to debate the motion. They are like the honourable member for Miranda, who supported the Minister for Health when he attacked the chairman and the board of Sutherland Hospital. The Minister for **Health** has done everything he can to abuse those persons. Because an election will soon be held, the honourable member for Miranda sees fit to inform the House of his support for the Minister and the Government. The same sort of thing will be heard from other mealy-mouthed members of the Labor Party in this House. It is making a mockery of this Parliament.

Everyone knows that noose is tightening round the Minister for Health and the Government because of their completely inept performance, mismanagement and failure to offer health care to the people of New South Wales. That is what this matter is all about. This afternoon the Minister spoke about the Opposition's priorities and claimed that they are wrong. He spent much time telling Irish jokes and stories, and then said that we should be talking about the grave health problems of the community. If that is so, this phoney motion should not have been moved by **the** honourable member for Castlereagh: instead, the Minister should have informed the House how he intends to resolve the tragic plight of New South **Wales** hospitals. That is what we want to hear about.

What about the patients who cannot be admitted at one hospital so they are taken to another in the hope that they will be luckier there? In some cases those persons have had serious injuries and they are barely being kept alive in ambulances. They are sometimes told by a hospital staff: "We cannot take you in. You will have to go somewhere else." Half an hour later when they arrive at another hospital they

are told the same thing. Where are **the** Minister's priorities? Why is he not **informing** the House about any plan he has to try to correct this tragic situation? In case the **Minister** does not know, people are almost queueing up, waiting to be admitted to some hospitals. He may not know that because he is spending so much time reading his old joke books. The Minister does not know that many persons are waiting to be admitted to major hospitals for elective surgery. Some of them are in a state of constant pain, distress and inconvenience and their condition is deteriorating. However, the phoney member for Castlereagh has moved a phoney motion to talk about one thing only—and that is how to pass the buck. However, he is not able to pass the buck. He may rant and rail as much as he likes against the federal Government, but the fact that has to be faced is that health care is a State responsibility. The Australian Constitution provides that health care is the responsibility of the States.

The Minister for Health is supposed to be the responsible Minister charged with doing something about this issue. He should not try to be sanctimonious by informing the House how he swayed the other Ministers for Health at a recent conference. Opposition members have been talking with other Ministers who attended that conference, and it seems that the New South Wales Minister for Health must have been at a different meeting. The Ministers for Health in the other States are taking their responsibilities seriously and are examining what they can do to improve the health care in those States. The New South Wales Minister for Health ought to be doing the same thing. He should be showing his concern about these problems. The newspapers are full of tragic stories about people who cannot be admitted to hospitals. A person may break a leg and be refused admission to St George Hospital; he may subsequently be taken to Royal Prince Alfred Hospital and then to Sydney Hospital seeking care and attention. That is the situation that confronts the Minister. Is the best he can do to tell the House that health funding is the responsibility of the Commonwealth?

I shall give some interesting facts about this issue. Since 1975–76—that is, since this Government came to office—its contribution to the health fund from consolidated revenue, less proceeds from poker machine tax, has increased by only 44 per cent. If the poker machine tax is added, the figure is about 47 per cent. In the same period the Commonwealth contribution by way of a cost-sharing arrangement with New South Wales has increased by 50 per cent. The New South Wales Government is more interested in bolstering up a great bureaucracy in the Health Commission. So far I have not heard any Government supporters in this debate make any mention of the great build up of Health Commission bureaucracy, which continues to grow.

The Opposition wants an indication from the Minister that the money the federal Government has been providing at an increasing rate—a greater rate than is being provided by the State Government—will be allocated to health care and not to bolstering up great bureaucracies. Why is it that every time the Minister talks about savage health cutbacks he attacks nurses, who are the most underpaid and **unrecognized** persons in the State? After intensive training nurses are given tremendous responsibilities. Though people's lives are placed in their hands, they receive about \$246 a week. I imagine that is less than the sum received by most persons employed at Parliament House. I do not want to try to make capital out of this, but nurses probably receive a lot less than persons employed in many unskilled occupations, who have lesser responsibility, **such** as factory workers. The nurses in this State are the most uncared for and **unrewarded** people in the community, yet they are doing one of the most dedicated jobs in the society. Why does the Minister attack nurses when he **speaks** about health care?

Mr Mason]

We have heard what the Minister for Health had to say today in this House when he made **an** abject apology. The only thing I want to say about him **is** that he is one of the few Ministers who has the courage to apologize and I admire him for that. I have heard him apologize on three occasions in this House. The only thing that spoilt his apology on one occasion was that it took him ten days to make it. Though I admire him for making that apology, why did he take ten days to do so? The Minister for Health likes to have a kick at people but he kicks the wrong ones. Have members forgotten how **he—in** his wish to cut health services—wanted to close down the community nursing services? That was a ridiculous wish. The best way to save hospital costs is to retain the community nursing services, but the Minister wanted to sack those nurses. There would be hardly a **community** nurse left in this State if the Minister had his way. At that time his action led to a great outcry across the State and a call for some commonsense.

In trying to blame the federal Government for cutbacks in health services, the Minister is showing some of the foolishness he displayed when he attempted to cut out community nursing services. When the health scheme was changed in 1979 outpatients were faced with real pressures. At present a person attending an outpatients' clinic must wait for three or four hours before being treated. When those changes were introduced why did the Minister seek and receive permission from the federal Government to charge insured persons presenting at outpatients' clinics? Why has the Minister allowed delays at outpatients' clinics to grow to the present proportion?

Why does the Minister not tell the House about the state of the nursing profession? The last figures I saw show that 728 positions for registered nurses were advertised but not filled. Why is the Minister making the nursing profession unattractive to the young people of this State? He has cast a shadow over the whole health care system of New South Wales. Some newspaper headlines dealing with the Minister's responsibility read: "Bed-cuts 'Crisis' For Hospitals", "Threat to 1 250 Beds In Hospitals", "Twenty Hospitals May Shut". Another newspaper headline reads, "Cuts Threaten 1000 More Hospital Beds"; another states, "\$2m Hospital Cutbacks Hit Sick Children"; and a further one says, "Hospitals Told To Slash Costs". Is it any wonder that young people are not coming forward to the nursing profession? No other profession gets kicked more by this Minister. The Minister for Health knows that the noose is tightening around his neck. He knows it is becoming more and more difficult to act within the restraints imposed upon him by this Government. Now he is going to put the boot into the federal Government because it is a nice kicking post—but that will not wear. Health is the responsibility of the State.

I shall look now at a couple of things I should have thought the Minister or the honourable member for Castlereagh might have wanted to say something about. The first is Aboriginal health. I am surprised that the honourable member for Castlereagh ignored that subject. Perhaps I should not be surprised for, early this morning, a member of a deputation telephoned me to say that the honourable member for Castlereagh had been supposed to arrange a meeting with the Premier and Treasurer. I gave the honourable member for Castlereagh a reminder of that deputation a short while ago. I think he had forgotten all about it. I do not think he had done anything arranging for those people to see the Premier and Treasurer. When they return to me at 5 o'clock I shall do all I can to help them to see the Premier and Treasurer. This Government has done nothing to improve Aboriginal health **services** despite all it has said. There has been no improvement in the general health of Aborigines. We see various reports coming forward, but despite the massive flow of money that has gone into that field, we have not seen one indication that Aboriginal health in New South Wales is improving, and that is of great concern to the Opposition.

Why has the honourable member for Castlereagh or the honourable member for Miranda not spoken of geriatric care? Instead of attacking the federal Government, they should be talking about geriatric care and our aging population. Great pressure will be exerted on the whole health care system of New South Wales as the population becomes older. The Minister for Health is not capable of planning or thinking ahead. We have seen the closure in the country of the bush nursing service and nursing hospitals at some smaller centres. Members who represent country electorates will agree that within the past few years under this Minister we have seen a continual deterioration in the health care of country people. One Minister asked in this House today why funds were going out to the country when they could be spent in the city. I cannot remember which silly Minister said that.

Some members think that they do not have to do anything for country people. Many country residents live in extremes of climate; they are a long way from health care and the sort of medical services available in the **city**. The bush nursing service and the bush nursing hospitals have gone but we have not heard a word from the honourable member for Castlereagh about that. All the honourable member wants to do is to attack the federal Government. The State Government will not get away with that attitude. Last Saturday the Hospitals Association of New South Wales issued a press release following a meeting with the Minister for Health. The association stated that the health services of this State will end up in chaos unless the Minister does something about them. It also said that the Minister has failed to honour his assurances that there would be no closures of country hospitals or reductions in health services. The association said it is a matter of great concern to hospital boards, the committees they represent, and to administrators, that they should be expected to provide a high level of health service to the community but were not provided with sufficient resources to enable them to do so.

The persons to whom the association referred are living with that problem, day in and day out. Being an independent group and not one to play politics, the association said both federal and State governments must look at the problem. Though the honourable member for Castlereagh did not say anything about that today, he has the hide to nod his head in agreement. The motion attacks the federal Government for cutbacks in health services. Why does the honourable member for Castlereagh not state that the government he supports should be doing something more to share in that responsibility? If the Minister for Health had the guts to stand up and be critical about the Government, he would have got a great deal more respect from the Opposition. We might have been tempted to go along with the motion if that had been the Minister's approach. The Minister has merely been playing petty politics, instead of looking at the problem in a bipartisan way.

If the Minister for Health, and supporters of the Government who have spoken in the debate on this motion had been in earnest, they **would** have moved as a matter of urgency that the House consider the **Jamison report**. That report should be debated in this House, for it offers some telling criticisms of the administration of the Minister. He should be telling the House how the problems of health care can be solved. The **Jamison** report criticized budget timetables, which often call for budgets to be prepared in December and January even though it might be the following November or December before they were approved. How can a hospital budget effectively for its needs when delays of that magnitude are occurring? The **Jamison report** concludes that this is a matter of real concern in the running of hospitals. The way that the Minister for Health administers the Health Commission of this State gives no incentive to hospitals to operate efficiently. On the contrary, the Minister is discouraging the hospitals from being more careful.

Mr Mason]

Why does the Minister not accept the suggestion of the Commonwealth Government and adopt a global budgeting approach in the hospitals of this State? Instead he has a massive bureaucracy, with hundreds of public servants in a centralized office in this city spending hours going over individual items of expenditure in every small hospital round the State. Why does the Minister not say to the hospitals that the Government will give each hospital \$x and they will have to work out how they spend that sum? If a hospital can save some money in its kitchen, it can spend it on additional nursing care at the bedside. Instead of that we have a system which lays down that if a hospital does not spend in its kitchen all the money that some bureaucrat in the ivory tower says it should, no advantage accrues to the hospital. Every job in every hospital has to be approved by the bureaucrats, as does the provision of every additional trolley or tray. The individual hospitals cannot make these decisions. They must go through the massive bureaucracy of the Health Commission.

Why does the Government not examine global funding? The Jamison report includes some interesting comments on the inflexibility of headed expenditure budgeting, the confiscation of budget surpluses, lack of rewards, and bureaucratic interference by a central authority. Why is the House not given the opportunity to debate these things in the Jamison report? Instead, the Minister for Health wants to kick the political can and try to make cheap political capital out of health care in this State. Why is the House not examining problems of the type that the Jamison report has thrown up, in an endeavour to save some money and give the hospitals real incentive to strive for efficiency? The Minister should say to the hospitals that they are part of the health team, instead of creating the divisions that he has in the health field. The hospital boards and administrators are scared stiff. They are even more scared now that the Ducker report has been produced.

The Ducker report is a classic illustration of the introduction of worker control into the hospitals of the State. Why does the Minister not move that the House debate the Ducker report, if he is concerned about health care in this State? I have not the time to go through all the matters mentioned in the Jamison report. I have cited only a few extracts. These matters are in the report. The Minister knows about them. I suppose they are worrying him. Instead of dealing with them he is playing cheap politics in a way that should be beneath him. Members of the Opposition always believed he was above that. Before he became the Minister for Health he had served as a member of a hospital board. We believed he cared about hospitals. Today he has descended to playing politics instead of getting down to ways in which the Government can improve health care in this State. The Jamison report contains recommendations about budgeting and about improving the efficiency of hospitals in this State. I repeat, it should be the subject of debate in this House.

I believe that the Commonwealth Government, which at present meets 50 per cent of the net operating costs of public hospitals in each State, is willing to listen to any approach from the Minister for Health. Can the Minister tell the House of any approach he has made to the Commonwealth Government for additional funds? Can he produce for the information of honourable members a copy of his submission on this matter to the Commonwealth Government? The Commonwealth decided to set its funding level at what the public hospitals of the State had been costing, with the addition of a built-in inflation factor. Inflation affects other costs besides wages. One honourable member said that 80 per cent of the problem is caused by increases in wages. Me did not mention how much overtime and penalty rates contribute to the financial problems of hospitals. I understand that about 40 per cent of the wages bill in public hospitals in this State is attributable to overtime and penalty rates.

If the Government is seeking the cause of the problems in the health care **system of the State**—and that is what it should be doing today—it does not need to go past the **Westmead** hospital. When the **Whitlam** Labor Government was in power in Canberra it said to the New South Wales Government—which was a Liberal Government at that time—"We do not care what you think. You have to build this massive hospital, which will be the biggest in Australia". It has proved to be a bottomless pit and the Minister knows it. Let the Minister deny it, if it is not true.

Mr K. J. Stewart: Which hospital is this?

Mr MASON: That is one of the worst jokes the Minister has ever trotted out from his old bag of tricks. The **Westmead** hospital is a bottomless pit. It is absorbing **staff**, facilities and resources of health care in New South Wales in a most dramatic way. That is where the financial problems in health care are coming from.

Mr K. J. Stewart: It was the former Liberal Party—Country Party Government that planned it and built it. All the present Government did was open it.

Mr MASON: I thank the Minister for his confirmation of what I said. I was at the opening. The honoured guest at the opening was the Rt Hon. E. G. **Whitlam**. Who got all the credit for building the great monster? The Rt Hon. E. G. **Whitlam**. The Minister for Health got down on his knees and announced, "Here is the **holy** man. We thank him for this. He did it all. He forced it on the New South Wales Government". At the opening of the hospital the Minister said the Rt Hon. E. G. **Whitlam** forced it on the Liberal Government of New South Wales, which did not want it. The former Liberal Government did not want it because it did not want to close Parramatta hospital and it did not want to have to close other hospitals round the State. We knew this was a growing city, that new hospitals were needed, and if hospital beds were to be concentrated in a great monster like the **Westmead** centre, hospital care in this State would be destroyed, and that is what has happened. ~~Let~~ us have no argument about the matter. That is where all the problems of health **care** in New South Wales started.

The Minister cannot provide hospitals in the growing areas of the State, where there is real pressure for them to be built, because the Government is committed to the **Westmead** centre. That is where all the problems are flowing from. If the Government had adopted a bipartisan approach to health care and said, "We have to do something about it", members of the Opposition would have been responsive. We would have agreed that health care is one of the most serious problems in the community and of course we have to do something about it. We have to do something to provide health care for those people who are being denied it, wherever they live. Action must be taken to see that medical and hospital care are available to people who need them. Members of the Opposition would have responded to an appeal of that type from the Government. But when the Minister plays cheap politics and seeks to place the blame entirely on cuts in health funding by the federal Government, we reject his approach. We say it is unacceptable. It is nothing but a cheap trick. I support the amendment. I believe the only approach we can take is to say it is the responsibility of the Government and the Minister. It is no use trying to pass the buck to someone else. They must face the music and find the answers. They should start by looking at the **Jamison** report.

[*Interruption*]

Mr Mason: I saw the poor old member for Parramatta stagger in a moment ago.

Mr DEPUTY-SPEAKER (Mr Quinn): Order! The honourable member for **Armida** has the call.

Mr McCARTHY (Armidale) [4.10]: For the past thirty-five minutes honourable members have heard the Leader of the Opposition——

Mr K. J. Stewart: The temporary Leader of the Opposition.

Mr McCARTHY: The temporary Leader of the Opposition. Earlier I listened to the honourable member for Clarence. I was far more enlightened by the speech of the honourable member for Clarence than I was by the speech of the Leader of the Opposition. Hospitals form an important part of small communities in country areas. They provide not only medical and health care services but also a sense of security to persons living in country communities. The presence of small country hospitals in New South Wales ensures that patients do not have to travel long distances to receive medical care; their relatives and friends are under less emotional and financial stress because the hospitals are located within the community. For those reasons I strongly support the concept of the small hospital in the country areas of New South Wales.

Last year the Government had to place financial constraints on hospitals throughout the State. That was necessary for a number of reasons, the main one being that other hospitals that had been for a number of years in the planning stage were in the course of construction. Some of them had been completed, but the Commonwealth Government did not provide for an increase in health services for New South Wales. The New South Wales Government responded to the Commonwealth request by appointing a task force to examine all matters connected with hospitals in the State. The task force was under the leadership of Dr Trevor King. Rationalization took place in many aspects of health care but the underlying cause of the rationalization was the effect of the financial constraints that the Commonwealth Government placed on the States. The Commonwealth Government had made no provision for the additional services that were being brought on line.

The Leader of the Opposition mentioned the Jamison report, which the Commonwealth Government has in many respects ignored. The Commonwealth Government established the Jamison committee to advise it on future financial arrangements for health services in Australia. The committee worked for almost eighteen months and produced three lengthy volumes. Now the Commonwealth Government **seems hell-bent** on ignoring the committee's recommendation. I shall have something to say later about the philosophy contained in the report.

The Jamison committee recommended a block grant for all health services. The initial level of the grant would be the present Commonwealth contribution for public hospitals, community health and the school dental programme. There would be a gradual evolution towards an allocation that would be acceptable to all States so that they could maintain effective health services. Now the Commonwealth wants to ignore those recommendations and absorb its health grants into the tax sharing arrangements with the States. No justification for such a summary dismissal of the recommendations contained in the Jamison report has been put forward, yet the Commonwealth Government seems determined to abandon any attempt at formulating a national health policy. The only reason I can see is the Commonwealth Government's attempt to impose on the States the ideology of its new federalism policy.

The Commonwealth Government cannot walk away from health care by putting the State health grants into the tax sharing arrangements. It will have continuing responsibilities for the stability of the health insurance system and will continue paying substantial subsidies for private hospitals and nursing homes. A block grant would allow the Commonwealth to withdraw from a day-to-day involvement in State **health** systems, but allow for consultation and negotiation on policy matters. That type of negotiation is essential if there are to be co-ordinated health policies.

A good example is the care of the aged. The Commonwealth is responsible for the payment of necessary home subsidies. States are responsible for hospital and community health services. Australia has tended to rely too heavily on putting old persons into nursing homes. This has cost the Commonwealth large amounts in subsidies. To reverse this trend and to allow the elderly to remain at home for as long as possible among people with whom they are familiar, appropriate hospital and **community** health policies must be developed. Without negotiation and **co-operation** between the Commonwealth and the States, the development of such new forms of care will be impossible. I therefore favour block grant funding. The Commonwealth Government should accept responsibility for formulating national health policies.

I wish briefly to touch on the philosophy of the Jamison report. The report is based on a philosophy of promoting private sector health services at the expense of the public sector. It looked to greater subsidies for private health insurance and private hospitals at the expense of public hospitals and other public health services. The result of that sort of policy would be the continued underpinning of private medical practice and the consequent high incomes of doctors in private practice. At the same time, because of cutbacks in the public sector it would be harder for pensioners and low-income earners to obtain hospital services. I have had personal experience of what happens in these cases in my own electorate. In 1980 the New South Wales Government moved to put doctors on a sessional basis for treating hospital patients at the Armidale and New England hospitals. Previously medical practitioners had been paid on a fee for service basis by the hospital.

The Government is concerned at the higher level of services being provided to patients when there is a direct link between each service provided and the doctor's own income. Experience in Australia and overseas indicates that people are hospitalized far more often when doctors are paid on a fee for service basis than when they are paid on a **salaried** or sessional basis. The response of the doctors was to refuse to treat hospital patients except in emergencies. It required a threat by the Government to employ salaried doctors at hospitals to get the doctors to back down and resume normal services. I hasten to add that the sessional payment system introduced is remarkably generous; it is the result of arbitration between the Health **Commission** of New South Wales and the Australian Medical Association. In the **Armidale** area most medical practitioners provide a decent medical service, but I was disturbed to learn that during the dispute a number **of** doctors tried to persuade disadvantaged patients, such as old-age pensioners, to take out private hospital and medical insurance which those people could not afford. That does not apply to all doctors, only to some of them.

Mr Caterson: That is defamatory.

Mr McCARTHY: This matter concerns me greatly.

Mr K. J. Stewart: It happened to the parents of a retarded child.

Mr **McCARTHY:** That is so. I believe that disadvantaged persons **should be given** the **medical** help and benefits that are their right. I am determined that they **should** not have to forgo food, electricity and other essentials because they **have** to spend funds on taking out private health insurance they cannot afford. The **Jamison** inquiry's **thrust** to the effect that we should place more reliance on private fee-for-service medicine is not conducive to efficient health services and threatens the availability of services for **pensioners** and disadvantaged **people**.

I wish to deal with the effect of the last year's rationalization process forced **on** the New South Wales Government by the Commonwealth's lack of provision for **the** justified increase in health services in New South Wales. In my region there has

been a cutback of 2.2 per cent in the available funds which has led to the loss of many hospital beds. The figure involved was \$770,000. That led to a cutback in bed numbers. It also meant that facilities envisaged by the Health Commission could not be provided. For example, the commission was unable to open a unit aimed at helping **the** mentally retarded in **Armidale** and **Tamworth**. Furthermore, a geriatric assessment rehabilitation unit in the area was abandoned also. **Further** cutbacks would be a disaster both for the electorate and the State. The cutbacks involved the closure of a number of beds at Armidale, Barraba, Boggabri, Glen Innes, Gunnedah, Guyra, Inverell, Moree, Tenterfield, Quirindi, Tamworth, Wialda and Wee Waa. Nobody could be happy with that situation.

Mr Caterson: This all happened under the New South Wales Labor Government.

Mr **McCARTHY**: It was not the wish of the Labor Government that it should happen. Mention was made earlier of a cutback in the number of patients in nursing homes. This has certainly not occurred in my electorate. [*Quorum formed.*] The area I represent is reasonably well serviced. Certainly the patients at the rehabilitation unit there have been treated well. That has been the case up to now, but one does not know what will happen next year flowing from the changes in funding of health care proposed by the federal Government. The message filtering down through the system suggests that the federal Government is seeking to work out a formula for funding hospital services that will base the Commonwealth contribution on an occupied bed to population ratio, working on a figure of 3.5 beds per 1000 population. Under such an arrangement the Commonwealth would agree to allocate **funds** on the basis of that many beds per 1 000 population, taking the State as a whole. **This** would correlate with the view expressed in the first paragraph of the **Jamison** report, which said in part:

If all States in Australia had achieved the same bed-day costs as Queensland and the same average bed use as Victoria in 1978–79, then spending by recognized public hospitals that year—which totalled \$2,664 million—would have been reduced by \$964 million.

The people responsible for that statement were juggling the figures. They looked at one factor in Queensland and related it to another factor in Victoria. Table 34 of the **Jamison** report shows that the Queensland adjusted bed-day cost for the year 1978–79 was \$90.62. The New South Wales figure for that year was \$110.75. Table 7 of the report shows that the Victorian figure for occupied bed days per 1000 head of population for the same year was 1007 and the New South Wales figure was 1404.

I ask the House to consider the effects of a 3.5 beds to 1 000 population formula, which I understand to be the ratio being considered by the federal Government, as a derivative of the concept of 1 100 occupied bed days per 1000 head of population. The number of beds required to meet a 3.5 beds per 1 000 population formula for New South Wales would be 18 010. Therefore, under such a funding formula the Commonwealth Government would agree to recognize 8 773 fewer beds than it recognizes at present. What will this formula do to hospital health care in New South Wales? These are irrefutable facts. The New England health region has 1455 beds and would lose 823 beds. At present it has a ratio in the vicinity of 8 beds for every 1 000 head of population. A ratio of 3.5 beds per 1 000 head of population would be a reduction of more than 50 per cent. The Government, and I am sure any thinking member of this House, would not tolerate that reduction. We would be horrified to

consider such a ratio. The reduction in federal Government spending will result in less money being available for hospitals, which in turn means a reduction in available beds and a deterioration in the quality of patient care. Rationalization in New South Wales has not reduced the quality of health care. It is true that some persons requiring surgery that is not urgent have to wait to be admitted to hospital. This is something which we have to bear. We can be thankful that patients have suffered little as a result of this additional wait.

I should like to refer next to some matters put by the honourable member for Clarence. He made broad and sweeping statements about the number of unemployed in New South Wales, asserting that thousands of people were leaving New South Wales for other places. In percentage terms New South Wales has the lowest rate of unemployment of any State in the Commonwealth. Far from droves of people leaving New South Wales, last year the population in New South Wales increased by some 90 000. The honourable member for Clarence referred also to the closure of hospitals. He referred particularly to the closure of hospitals at Nabiac and Nelson Bay. I inform the House that both hospitals were private hospitals. The honourable member for Clarence refrained from telling the House that the hospital at Nelson Bay was not closed by the New South Wales Government but by the federal Government.

The Opposition referred to the Eastern Suburbs Hospital. That hospital had three units, one of which was closed and its services taken over by the two other units in the area. Often the House hears references by Opposition members to the Government's bad management. Today the Leader of the Opposition criticized me and two or three other Government supporters who participated in the debate, and forecast that we would not be re-elected at the next State elections. I remind the House that at the last elections the Leader of the Opposition did not fare too well. He had one of the biggest swings in the State registered against him. Further, the Leader of the Country Party had one of the biggest swings ever registered against a member representing a country electorate. The Government has a big majority. Because of the Government's leadership and management qualities of its Ministers they will continue in office after the next elections.

Mr PUNCH (Gloucester), Leader of the Country Party [4.39]: I have a little pad in my hand on which I intended to write anything said by the honourable member for Armidale that was worthy of reply. The pad is blank. Because of the lack of interest by Government supporters in the honourable member's contribution the quorum bells were rung to have them attend the Chamber. When the honourable member was speaking there were three Government supporters in the Chamber and two of them were asleep. The honourable member's comments were not those of a person who was fully awake. Though the motion was directed to the critical matter of health care in New South Wales members of the Labor Party were not sufficiently interested to be present. Probably they are playing squash, having a sleep or in other ways showing they were uninterested. I cannot blame their being absent as the honourable member for Armidale's comments did not amount to anything at all.

The honourable member for Armidale made but two points that are worthy of some comment. He asserted that he supported small country hospitals. I do not know that the Government supports them. It is closing hospitals all round New South Wales. The Minister for Health probably is sharpening his knife in preparation to close others. The honourable member for Armidale might be worried about small country hospitals, but he is not concerned about small country abattoirs. The House was told recently about the plight of the Guyra abattoir, but the honourable member did nothing to save the jobs of the 130 people who were employed there.

The honourable member for **Armidale** said people are leaving New South Wales. Unfortunately, that is a sad but true fact. One cannot blame them for leaving a State that has a government that is driving them away, and driving industry away, because of its regressive socialistic policies, which it continues to implement. I am happy to have an opportunity to say a few words on the subject of this debate. *All* honourable members have been waiting for the Minister to allow this matter to be debated. Wealth care is most critical to the people of New South Wales. It is probably the number one concern of any responsible person. Regrettably, its history reveals it as involving one of the gravest scandals experienced in New South Wales and indeed in Australia.

It must be remembered from the outset that health care is basically a State responsibility. I emphasize that for the benefit of the Minister for Health and in an endeavour to drum that fact into him so that he gets the message. Health care is constitutionally a State responsibility. The Minister should face up to his responsibilities. The Government has the money to provide the health care that is needed. Those funds are given to it in large amounts by the Commonwealth, with increases each year. The Minister and his colleagues should be willing to govern as the elected government of New South Wales. The Government should be willing to tackle the health problems that exist in New South Wales.

One could argue all day and all night whether health care is the responsibility of the federal Government or State Government. If one were to argue about funds, one would be moving away from the point. The issue is, who should be responsible for health care and hospitals in New South Wales? There is no doubt that this Labor Government is responsible for those services in New South Wales. I repeat; it is shirking its responsibilities and evading the critical issue of health care for the sick, the young and the old. It is evading its responsibilities to provide adequate health care in a balanced manner right across New South Wales. It is closing **down** hospitals and offering services that are completely inadequate compared to the need, particularly in country areas.

I shall mention the closure of one hospital in particular—Tibooburra—which has been the subject of debate in the House on many occasions. I am appalled that any Minister would have been a party to such an action. Since the closure of that hospital, which is in the isolated area of Tibooburra, many people have had to travel 200 miles to Bourke for treatment and to visit patients. What if one's son, daughter, father or **mother** were in hospital? One would have to drive 200 miles to the hospital **and** 200 miles back home, through some fairly rugged country. Is that proper health care? **Is** that balanced health care? Is that looking after the interests of the people of New South Wales? Nevertheless, that is what the Government is doing in so many areas.

The honourable member for **Armidale** fled from the **Chamber** after delivering, in a pathetic manner, his prepared **screed**. He mentioned the closure of small country hospitals at Nahiack, Nelson Bay, Coolamon, **Tibooburra** and others. Last year the **Minister** for Health stated that another twenty country hospitals would have to be **closed**. I hope that does not happen, but the Minister is so crazy and one-eyed in his attitude towards health care generally that he fails to see the repercussions of **such** actions.

Only yesterday I was contacted by a citizen who lives at Nelson Bay and does a great deal for elderly people in that area. He pointed out that because of the savage cut in community health care services, pensioners who want dental treatment now have to travel by bus to Newcastle, board a connecting bus to Wallsend, wait in a queue for treatment and then try to get back home in a day. The irregularity of the bus services makes that an almost impossible task. Is that looking after the pensioners

of New South Wales? Earlier in this debate it was said that pensioners have to be looked after. No one would dispute that. But, people residing more than 30 miles from Newcastle have to travel to and from hospital on bus services that do not have co-ordinated timetables. They are put to considerable inconvenience, and because of that probably do not attend as regularly as they should. They suffer as a result.

I shall keep returning to this matter of health care. The statistics, **which** the Minister for Health will no doubt quote, will not impress me. If the State Government has the money, it should be willing to provide proper health services. **Let us** look at the New South Wales Budget for 1980–81. This financial year the Government has \$535 million more than it had last year. Yet the Minister claimed in *Hansard* of 3rd March that there was a short-fall of \$14 million, and he attempts to use that figure to defend the closing of hospitals and curtailing of medical services **all** over New South Wales. What is wrong with the Government? Will it not accept its responsibility, with all its extra money? Or is it that all that money is being used **on** the renowned Wran public relations machine?

Anyone who considers this matter in its correct perspective will agree that problems with health services started back in the early 'seventies with Prime Minister **Whitlam**, aided by his ministerial colleague the Hon. W. G. Hayden. One is a has-been, and the other will not last much longer. They introduced a major change in the health scheme, and ever since Australia has been in trouble. The people of Australia have been slugged unmercifully for health care. This situation has been brought about by changes introduced by the socialist Labor Party in Canberra. That party encouraged unnecessary hospitalization and medical treatment and turned Australians into a race of hypochondriacs. People have been encouraged to consult doctors and go to hospitals for all sorts of discomforts, many of which do not need treatment at all. **That** is not in the interests of the people. It has been brought about by the Labor Party, first in the federal sphere and then in the State sphere.

There is no doubt that though the health scheme has been abused it has brought to the fore the existence of many needs, and it is funding that is presently worrying everyone. The Government must fix its priorities on expenditure. I emphasize that the determination of priorities for allocating Commonwealth funding for public hospitals is solely a State responsibility. I hope the Minister accepts that as a fact. The existence of a number of inefficiencies in public hospitals was highlighted in the **final** report of the commission of inquiry into the efficiency and administration of hospitals, known as the **Jamison Committee**. It noted that power to remove **those** inefficiencies rested solely in the State's hands. Surely the State does not expect the Commonwealth to continue to underwrite the waste and inefficiencies that exist in **some areas** of the health system, as proved by the **Jamison Committee**? I want to quote a section of the report of that committee: it is something that the Minister for Health and other Ministers should face up to. In his report Mr **Jamison** said:

One of the most telling facts that has emerged from this inquiry is the variation between the States and within the borders of each State in the cost of providing a bed in a hospital, and in the use of these beds. If all States in Australia had achieved the same average bed-day costs as Queensland and the same average bed use as Victoria in 1978–79, then the spending by recognized public hospitals that year—which totalled \$2,664 million—would have been reduced by \$964 million.

That is more than a one-third reduction. Is not this the sort of thing that the Government would be looking for so that the operations of efficient hospitals are not cut? Recently I was in Gloucester, in my **electorate**——

Mr K. J. Stewart: Congratulations!

Mr PUNCH: I am in my electorate a lot more than the Minister for Health is in his electorate and certainly more than the Premier and Treasurer attends his electorate. I wrote a letter to the Minister about the Gloucester Hospital in an attempt to get a sensible answer about the matter. The hospital is efficient and for a long time it has been **run** on sound financial lines. Recently the hospital administration received a letter stating that its budget for the next four months has to be cut by \$82,000. The hospital will not be allowed to dismiss any staff, restrict its services in any way or change any ambulance service. Does the Government think the hospital is Mandrake? The hospital had previously **pared** its expenses to **the** bone. If the Minister cared to look at the hospital's records, he would see that figures disclosed how the hospital has pared expenses over the years.

When moving the motion this afternoon the honourable member for Castlereagh said that at least 70 per cent of hospital costs are taken up in wages. Yet here is an efficient hospital that has been told to reduce by \$82,000 its budget for the next four months. Is that Government efficiency? Two-thirds of the way through the financial year the Government has told the Gloucester Hospital that its budget has been cut by \$82,000. Are not hospitals entitled to be told early in the year what are their budgets so that they may budget accordingly? Under this Government hospitals are suddenly told to cut their expenditure but not their services. Hospitals—country or metropolitan—**cannot carry** out that direction. They cannot implement these types of cuts. It is nonsense for the Government to expect them to do so.

The State Government should immediately provide the money to make up the shortfall of \$14 million about which the Minister has spoken. It can then go to Canberra to see if the matter can be resolved. The Commonwealth Government has said quite frankly that if the States can document and substantiate price increases in excess of the provisional escalation factors and demonstrate that efforts have been made to offset rises, additional funds can be provided. That is the way the **Government** should approach this matter, instead of cutting down on hospital beds, closing country hospitals and thereby giving hospitals an impossible task in the last three or four months of the financial year. With the extra hundreds of millions of dollars it has gained this year why does not the State Government meet the deficit, fix up the hospitals and maintain an adequate and proper health care in New South Wales? It is a shameful disgrace that the Minister for Health and the New South Wales Government will not examine this aspect. They are not willing to try to improve hospital efficiency or cut Government spending. They are penalizing, in particular, country people and country hospitals.

In 1979 the Minister for Health, who is so saintly here today, sought and obtained Commonwealth agreement to introduce outpatients' charges for insured patients, but now he will not impose them. He is curtailing the use of hospital beds in nursing hospitals, yet will not take any steps to improve the situation. This is typical of this Government's approach to health care. The Government has penalized efficient hospitals and people who, unfortunately, need health care. It is scandalous that because of the Government's actions parents and relatives are denied access to hospitalized patients. Some country people have to wait for months before being admitted to a hospital for elective surgery—and often to a far-away hospital.

Because of the closure of hospitals some persons injured in road accidents in the country have to be conveyed long distances to receive hospital treatment. This has often resulted in loss of life. We have seen the impact that the closure of country hospitals has on the community and on the economy of various centres. The Premier and Treasurer and Minister for Health are not concerned about unemployment, particularly in country areas, where it is worse than in metropolitan areas. That does not

worry them. **At** they do is blame the federal Government, saying, "They **are** the villains. They have cut our funds". That is not true. The Minister knows that this year he has been given more funds than he got last year—an increase of about **12** per cent out of a budget that is up by more than \$500 million. The Government has to set **its** priorities. It can **do** what it likes with its funds. What about **taking** the \$14 **million** out of the extra \$175 million the Government has gained this year in taxation reimbursement grants? Everyone in the State is concerned about the level of health care. Recently published in a daily newspaper was a letter signed by the president of the Australian College of Health Service Administrators. He wrote:

Hospital administrators and boards of directors are being placed in a straitjacket by Government policies and regulations, Treasury funding and the bureaucracy.

That is so true; it is happening at the present time in New South Wales. The money is available. The Government should be using it to provide adequate health care for the community.

Mr McDonald: The Minister cannot handle his finances. He is \$44 million over for the first six months period.

Mr PUNCH: Yes, and to me that reflects total incompetence. The Minister stands condemned in the eyes of all responsible people in this State. Yesterday a motion was moved calling for the dismissal of the Minister for Corrective Services. We know how incompetent he is. Prisoners wander in and out of gaol. They cannot be kept in. Hospitals are in a slightly different position. Patients cannot get into hospitals. Bed occupancy has been reduced or hospitals closed. The Minister and the Government have abdicated their responsibilities in health care and have failed miserably to care for the sick, the old and the young. The Minister has proved to be nothing more than totally ineffective and long-winded. He has deliberately and intentionally misled the people of New South Wales by repeatedly trying to pass the blame on to the Commonwealth for something that, I repeat, is solely a State responsibility. The Commonwealth provides funds and the States have to fix their priorities. The Government has repeatedly failed to accept its responsibility in this matter.

Mr K. J. STEWART (Canterbury), Minister for Health [4.59]: I **lead** off with the phrase with which the Leader of the Country Party concluded; he said that there has been a deliberate misleading of the **people** of New South Wales. In reply I say to him that never before have I heard from any member of this Parliament misrepresentations of the type I heard from the Leader of the Country Party today. Since I have been Minister for Health I have not closed one New South Wales hospital.

Mr Punch: What about Tibooburra?

Mr K. J. STEWART: Tibooburra Hospital is not closed; it is still operating. **The** Leader of the Country Party said that I have closed hospitals willy-nilly throughout New South Wales, and then he specified the Tibooburra Hospital as being closed. The Tibooburra Hospital is alive and well. It is still operating; it always has been. Nabisac was a privately-run hospital. The private enterprise administrators went broke and on their own volition closed the hospital. The decision to close the Nelson Bay Hospital was taken by that hospital's committee, after the Commonwealth Government withdrew the \$16 a day subsidy for private beds. It lost Commonwealth Government recognition and was closed on the Commonwealth Government's **initiative**. It **over-**
rode—

Mr Punch: That is not true and the Minister knows it.

Mr K. J. STEWART: After co-operating with the State Government for about eighteen months the federal Government overrode our request to keep the hospital open. The main reason the federal Government withdrew the \$16 subsidy was that the hospital had been declared unsafe by the Board of Fire Commissioners. The Nelson Bay Hospital was closed because the Commonwealth Government withdrew its recognition of the hospital as a private hospital. I make that clear.

Mr Fischer: Tell us about Coolamon.

Mr K. J. STEWART: Coolamon hospital has not been closed. It is still operating. The Government sought to change the role of Coolamon hospital to an emergency centre and a community health centre, delivering that type of care to the people of Coolamon, exactly as the former Liberal Party–Country Party Government did in 1972 to the Ardlethan hospital, which is only a few kilometres down the road. The Hon. A. H. Jago, a Liberal Minister for Health, altered the role of the Ardlethan hospital from acute care to a hospital providing emergency care and community health service, with general practitioner services at the hospital. Because this was successful, it was suggested that the same should happen at Coolamon and at Adelong. The Government foresaw a change in the role of the hospital at The Rock, which is proceeding at the moment. I repeat that I have not closed—and neither has the Labor Government since it came to office in 1976—one hospital in New South Wales. The honourable member for Armidale gave an explanation concerning the Eastern Suburbs Hospital. It was one of a group of three hospitals working as the eastern suburbs group of hospitals. That unit was closed and the services that were being provided and the patients that were being treated at the unit were transferred to the Prince of Wales Hospital and the Prince Henry Hospital. All those services are continuing.

Mr Caterson: What about the Parramatta Hospital?

Mr DEPUTY-SPEAKER (Mr Quinn): I call the honourable member for The Hills to order.

Mr K. J. STEWART: The Parramatta Hospital has not been closed. It will change its role so that it will become an assessment and rehabilitation centre to look after the ageing population.

[Interruption]

Mr DEPUTY-SPEAKER (Mr Quinn): I call the honourable member for Hornsby to order.

Mr K. J. STEWART: As I told a deputation today, unless we change direction and place more emphasis on the care of the aged in New South Wales with acute, rehabilitation and domiciliary and support services within the community, the aged population will consume all the hospital services in New South Wales. That is a world-wide phenomenon and it is one that the New South Wales Government has been placing more emphasis on in the past three or four years. The honourable member for Burrendong knows that he got a new hospital at Coolah. The old hospital has been renovated. It was opened last Sunday week. I shall not say what the honourable member said about me in his speech. It did not coincide with some of the comments that were hurled at me in this House today. The Government renovated the old hospital and converted it to an assessment and rehabilitation unit, a day care facility and an activity centre for the aged persons of Coolah so that we can support them in the community and they will not have to become lying-in patients in the public hospital system. That is what will happen to Parramatta Hospital.

I shall tell the House what some members of hospital boards, some shire presidents and some members of Parliament think. They think it is nasty, dirty or distasteful to have to look after old people in a hospital. They want bright, shiny equipment, operating theatres and surgeons in white coats. If one suggests to the boards of directors of hospitals that they should start **looking** after the aged of the community, they say that is not the role that their hospital should play; they consider that these people should be in the nursing home down the road.

The Leader of the Country Party referred to the dentures for pensioners scheme. That scheme was introduced under the hospital cost sharing agreement. Any interruption to or reduction in the hospital cost sharing agreement is reflected in the dentures for pensioners scheme. In 1971–72 it was worth \$486,000. The next year it went to \$680,000, and then to \$765,000. In 1974–75, the last financial year of the former Liberal Party-Country Party Government, it was \$1,100,000. In 1976 it went to \$3.4 million, in 1978–79 to \$3.8 million, in 1979–80 to \$4.9 million, and in this financial year the Government has allocated in the Budget a sum of \$5.3 million for the scheme. Members of the Opposition in this House are attacking the initiatives of the Labor Government though their own performance pales into insignificance when compared with what we have done.

Members of the Opposition have referred to the **Jamison** report. I was pleased when the first paragraph of the Jamison report was read by the honourable member for Clarence, for it will make him the laughingstock of every health and hospital administrator in Australia. That is what the Jamison report has become. I make no apology for saying that. The Jamison report is completely discredited. Hospital costs in Queensland are less than in New South Wales because doctors there **are** not paid fee for service; they are paid either a salary or sessional fees. That is why Queensland has a lower bed cost than New South Wales. The honourable member for Clarence said that I was trying to socialize medicine because I was not in favour of the fee for service system in New South Wales. Then the Leader of the Country Party asked why New South Wales cannot emulate Queensland. Having listened to the contributions to the debate from honourable members opposite I can say that not one of them knew what he was talking about. That is why they had to keep hurling personal abuse at me and at my colleagues who contributed to the debate. I can tell the honourable member for Clarence that his statements are all wrong and in the future they will be an embarrassment to him.

Let me deal with another part of the **Jamison** report which said that if New South Wales had the same occupied bed days per thousand head of population as Victoria, which had 1 100, New South Wales could save a great deal of money. The whole essence of the Commonwealth Government's attack on the cost sharing agreement is that New South Wales has 1 404 occupied bed days per thousand head of population. I shall tell the House why that happens in New South Wales. There is a traditional, historical and geographical reason. I should have expected members of the Country Party and other honourable members representing country electorates to have regard to the fact that, because there are not sufficient nursing homes or facilities for nursing aged people in country areas, the Government has taken **long-stay** aged patients into public hospitals to look after them. I take no credit for that. That system was in vogue before I became Minister for Health in 1976.

If honourable members opposite fall for the ploy that we should reduce our occupied bed days from 1 404 per thousand head of population to 1 100 per thousand head of population, they will find that those patients who are being looked after, especially in country hospitals, will not be acknowledged by the Commonwealth Government. That is the only way New South Wales can bring its occupied beds **ratio** down to compare with that of Victoria. It can be done only by closing occupied beds

Mr K. J. Stewart]

and not admitting these patients to our hospitals. Another point that honourable members opposite do not know about is that there is a higher usage of private hospitals in **Victoria**, where there are more private hospitals and more private hospital beds. That is another reason why the ratio of occupied beds per thousand head of population in public hospitals is lower than in New South Wales.

I come now to the point made by the minority Leader of the Opposition when he asked whether I have done anything to request the federal Minister for **Health** to meet the deficit that we estimate we are facing in New South Wales. Every other State Department of Health in the Commonwealth is also facing a deficit. I have recently returned from Perth after attending the conference of Ministers for Health. I did not have to attack the federal Government last Thursday and Friday. That was done by Ministers for Health from **Victoria**, **Queensland**, **Western Australia** and **South Australia**, while I sat back and enjoyed it. Yet honourable members opposite say that I am the one who keeps knocking the Commonwealth Government. It is a pity they were not at the conference in Perth. If it were not for the fact that there is a certain amount of courtesy in the transcript of the meeting of Ministers for Health, especially in its draft form, I should have told the House some of the comments that were made by Ministers for Health of other States who, without exception, were members of Liberal governments.

I have written to Mr **MacKellar** offering \$5 million under the cost sharing agreement conditional on the federal Government's providing the other \$5 million under that agreement. So far the Commonwealth Government has not taken up that initiative. If Opposition members want to help Gloucester hospital or Gulgong hospital, they should bring pressure to bear on their federal colleagues in Canberra to match our grant dollar for dollar. We shall then be able to inject \$10 million into the hospital system and the economies will not be so drastic.

Opposition members have also made the point that the State Government should take responsibility for the State hospital system. We accept that proposition and have always done so. Nobody has taken harsher decisions than I have in the past couple of years resulting from contractions in funding under the cost sharing agreement imposed by the federal Government. If the honourable member for **Sturt** disagrees with that remark, I inform him that in 1979 the New South Wales Government did not contemplate any reduction in hospital services, nor did it contemplate any reduction in funding. The whole initiative for reduction came from the federal Government. That flowed from the federal Government's liking for the figure of bed occupancy in **Victoria** amounting to 1 100 per thousand head of population. That concept now appears to have captured the imagination of the Leader of the Country Party.

The federal Government said that there would be no increase in the New **South Wales** health budget for new units in the New South Wales hospitals system. **We** were told that if we wanted to bring such units into operation they would have to be paid for by compensatory reductions in existing services. In 1979–80 **Westmead** hospital was about to come on line, Gosford hospital was to have extensions, Wyong hospital was about to be opened, and the Commonwealth Government **also** refused to provide funds for the children's ward at Shoalhaven hospital. Therefore, I had to introduce a rationalization programme aimed at the cutting back of beds so that I would be able to open those hospitals, especially **Westmead**. The alternative that was open to us was to leave the \$180 million **Westmead** hospital unopened; it would have stood there as a shell. Therefore, we had to take that initiative. We made savings in existing budgets amounting to \$19 million. Who says the Health Commission of New South Wales is not efficient? Those savings in 1979–80 have now **escalated** because other units have come on line. In the present financial year we

have opened and operated hospital units costing another \$15 million. We have had to afford that out of the existing budget because the Commonwealth Government would not cost share any initiative.

When I am asked what the Health Commission is doing, I reply that the chief executives in our hospitals are now operating new units costing \$34 million on the 1978–79 budget figures. However, the Opposition ripostes that the federal Government this financial year gave us an increase of 11.8 per cent on the previous year's figure. That is true, but 9.9 per cent of that figure related to inflation. Furthermore, it included a figure for new units amounting to 0.2 per cent and a figure of \$737,000 or 0.6 per cent for health promotion. That is part of the 11.8 per cent which Mr MacKellar says he gave the New South Wales Government as an extra. If he had had to give New South Wales extra money for new units operating in this State in 1980–81, he would have had to provide a figure of 11.8 per cent—plus an additional figure of \$34 million.

I received a letter from Mr MacKellar dated 12th March, 1981, confirming that the Commonwealth accepted the 1979–80 budget. I point out that we are now in March 1981 and that the Commonwealth has only just confirmed the 1979–80 budget. The letter also makes clear that following discussions in November under the cost sharing agreement, he confirms a revised hospital budget for New South Wales. The budget was issued in July 1980 and was distributed region by region. In November 1980 there was another meeting of the State standing committee on the cost sharing agreement. After that discussion the hospitals were given a confirmed budget, which did not vary in any great degree from the provisional budget given in July 1980. That process has occurred in the hospital system from time immemorial. It has certainly happened throughout the time I have been associated with hospitals—and that is not only while I have been Minister for Health. The Opposition claimed that the policy of the New South Wales Government is that there should be reductions, economies and budget savings. However, Mr MacKellar in his letter said:

I am prepared to agree to the revised budget proposed by New South Wales for 1980–81 after adjusting for the above variations and after deducting \$0.613 million for the proposed Drug and Alcohol Unit.

We wanted to look after unfortunate and disadvantaged people by spending money on the Drug and Alcohol Unit, but the letter continues:

The Commonwealth regards this item as an expansion of hospital services and as you will be aware, the Commonwealth's policy regarding the 1980–81 expansion projects is that such projects will not attract cost sharing unless there is an equivalent reduction in existing services.

That was the Commonwealth edict to me. I wanted to do something for the homeless, the drunken and disadvantaged in country towns and that was the attitude adopted by the Commonwealth Government. I was told that it was an initiative **and that** I had to close beds in the hospital system in order to afford that unit. It is **time the** Opposition realized that the reduction in hospital services is a direct result of Commonwealth policy initiatives and edicts. Never before has the New South Wales Government had to contemplate a reduction in hospital services or in hospital budget.

The minority leader of the Opposition said that Westmead hospital is a dreadful place that should not have been built. He might like to know that hospital **was** planned, designed and constructed by the former Liberal Party–Country Party Government. That hospital was on my doorstep wrapped in swaddling clothes when I became

Mr K. J. Stewart]

Minister. It was like an unwanted child. Let me tell the House what **Gough Whitlam** did when he was Prime Minister. He lives in the western suburbs and he has an eye to the needs of the people who live there. The people in that region have a hospital bed occupancy figure of two per thousand compared with a figure of eleven or twelve per thousand elsewhere. The former Government had started to plan **Westmead** hospital in 1968. In 1973, when plan No. 12 had been produced, Mr **Whitlam** gave \$4 million to start the **Westmead** hospital, saying, "If you do not start it straight away, I will build my own Commonwealth hospital in the western suburbs." He considered that a hospital was needed in that area of the western suburbs because of the population explosion that had occurred. Although the western suburbs were suffering from a shortage of hospital beds, the former Liberal Party—Country Party Government could find \$40 million to renovate and reconstruct the Royal North Shore Hospital, which is right in the territory of the silvertails.

In addition to the \$4 million that it gave to the **Westmead** Hospital, the **Whitlam** Government made funds available for the **Campbelltown** Hospital. This is the reason that the citizens of **Campbelltown** now have a hospital. The former Prime Minister commenced the hospital development programme. The first year some \$8 million was allocated. In 1974–75 the **Whitlam** Government gave \$36 million to the Liberal Party—Country Party Government of New South Wales for hospital development and construction. In 1975–76 the former Government received \$35 million from the **Whitlam** Labor Government. In 1976–77 Prime Minister **Fraser**, that so-called kindly gentleman who loves people, reduced the allocation to \$15 million. In 1977–78, when he had things under control, he wiped the hospital development programme out of existence. From where do Opposition members think the former Government obtained the money to build the **Westmead** Hospital? It came from the hospital development programme.

The Leader of the Opposition said that the hospital cost sharing programme **spoiled** hospital administrators in New South Wales, that they should never have received **so** much money, as they squandered it. Also, the Prime Minister is saying that the cost sharing agreement spoiled hospital administrators in New South Wales. The debate on the motion has revealed the linking up in philosophical thinking and political policies between the Opposition in New South Wales and the federal Liberal Party—Country Party in Canberra to bring about savings in the costs of the New South Wales hospital system. Opposition members, like their colleagues in Canberra, consider that hospitals have too much money to spend. The Leader of the Opposition read the news release of the Hospitals Association of New South Wales—and read it incorrectly as all references to government in that document were in the plural. Everything said at that meeting about government referred to both governments. I was present at the meeting. The attack made on the federal Government was the most trenchant that I have ever heard from a president of the Hospitals Association of New South Wales.

The Leader of the Opposition said also that I had attacked and criticized nurses. I have never done any such thing. He **has** a short memory. In **1975**, when the nurses were awarded a wage increase through the industrial arbitration system of New South Wales, the Cabinet of which the Leader of the Country Party and the Leader of the Opposition were members decided to appeal against the decision. The former Government's decision to appeal against the just wage increase awarded to nurses by the Industrial Commission of New South Wales was one of the main reasons for the downfall of that Government at the 1976 elections. How dare Opposition members masquerade as protectors and guardians of nurses' rights in New South Wales. If they had any regard for the nursing profession they would bring pressure to bear on their federal colleagues to have nurses admitted into colleges of advanced education, which they have been seeking for the past ten years.

Nursing in New South Wales is in a critical state. Unfortunately, New South Wales is unable to recruit the number of nurses required to fill the positions available. This is causing a burden on those carrying out nursing duties in New South Wales hospitals. I fear that the effects of the shortage of nurses will be felt more in the future. In 1978 New South Wales had 27 446 registered nurses. In 1980 there were 22 715 registered nurses, a decrease of 4 731. The Opposition asserted that health care was a State responsibility. It is a State responsibility just as its funding by the Commonwealth Government is a responsibility of that Government. Although the federal Government is making it sound as though the New South Wales Government is asking for a gift, it is not doing that. It is asking for a just return of the taxes collected from the people of New South Wales so that they may be provided with the proper level of health and hospital services to which they are entitled.

I have never heard three more disgusting speeches than I heard this afternoon from members of the Opposition. If the cost sharing agreement is abolished—and the Government understands that it will be—then the money available to New South Wales will be hidden in tax reimbursement grants. If the present formula is not adjusted the amount for hospitals in New South Wales next financial year will be reduced by \$91 million and in Victoria by \$23 million. Last Thursday and Friday at the meeting of Health Ministers in Perth I was fortunate to have the support of the Victorian Minister for Health. If honourable members opposite have any regard for health and hospital services in their electorates, especially in country areas, they will vote in support of the amended motion. The Government demands a block grant based on a formula that takes into account all needs.

Mr FLAHERTY (Granville), Government Whip [5.29]: I move:

That the honourable member for Canterbury, Mr K. J. Stewart, be allowed to continue his speech for a further period of fifteen minutes.

Question put.

The House divided.

Ayes, 55

Mr Akister	Mr Ferguson	Mr Neilly
Mr Anderson	Mr Gabb	Mr O'Connell
Mr Bannon	Mr Gordon	Mr O'Neill
Mr Barnier	Mr Haigh	Mr Paciullo
Mr Bedford	Mr Hatton	Mr Petersen
Mr Booth	Mr Hills	Mr Quinn
Mr Brereton	Mr Hunter	Mr Ramsay
Mr Britt	Mr Jackson	Mr Rogan
Mr Cavalier	Mr Jensen	Mr Ryan
Mr Cleary	Mr Johnson	Mr Sheahan
Mr R. J. Clough	Mr Johnstone	Mr A. G. Stewart
Mr Cox	Mr Keane	Mr K. J. Stewart
Mr Crabtree	Mr McCarthy	Mr Walker
Mr Curran	Mr McGowan	Mr Wilde
Mr Day	Mr McIlwaine	Mr Wran
Mr Degen	Mr Maher	
Mr Durick	Mr Mair	<i>Tellers,</i>
Mr Einfeld	Mr Mallam	Mr Flaherty
Mr Face	Mr Mochalski	Mr Wade

Noes, 33

Mr Arblaster	Mr Freudenstein	Mr Schipp
Mr Boyd	Mr Greiner	Mr Singleton
Mr Brewer	Mr Healey	Mr Smith
Mr J. H. Brown	Mr King	Mr Sullivan
Mr Bruxner	Mr McDonald	Mr Toms
Mr Cameron	Mr Mason	Mr West
Mr J. A. Clough	Mr Murray	Mr Wotton
Mr Dowd	Mr Osborne	
Mr Duncan	Mr Park	
Mr Fischer	Mr Pickard	<i>Tellers,</i>
Mr Fisher	Mr Punch	Mr Catterson
Mrs Foot	Mr Rozzoli	Mr Taylor

Resolved in the affirmative.

Motion for extension of time agreed to.

Mr K. J. STEWART: I thank the House for its indulgence, and I thank the Opposition for its compliment. During the division the honourable member for Blue Mountains told me that he had telephoned the Tibbooburra Hospital and that the sister who answered said, "Yes, the hospital is still here and we are still operating". She said they do not have any patients at the moment, and that they have not had any for the two weeks she has been there. She said everyone is happy and they are ready to spring into action at the sound of a siren.

The Leader of the Country Party and probably the Leader of the Opposition said I had closed hospitals in New South Wales. I want to give the lie to that statement immediately. I have not closed any hospitals in New South Wales. The two instances of closures cited by the Leader of the Country Party and the honourable member for Clarence were private hospitals, over which I had no control. I did not know that one of them existed. The hospital at Nelson Bay was closed by the hospital committee because the Commonwealth Government withdrew recognition and refused to pay the \$16 a day subsidy for private hospital beds.

I commend the honourable member for Castlereagh for his splendid contribution to the debate this afternoon. He is a country member of this House who has a real regard not only for the people he represents but also for country people right throughout New South Wales. It is a shocking indictment, especially of the Country Party in this House, that a debate of this type had to be initiated by the Government so that an important matter could be aired. The reason that the Opposition did not initiate the debate was that it is in total agreement with the Commonwealth Government's cutbacks in hospital and health funds and the monetary reductions being effected in the health systems of every State in Australia.

I thank the honourable member for Armidale and the honourable member for Miranda for they, too, are members who have a real and genuine concern for the people they represent. It is important that at this time, when the Commonwealth Government, a victim of its own parsimony and indecisiveness, has not made a decision on the future of funding hospitals in New South Wales and in every other Australian State, that the New South Wales Government should demand of the federal Government the money necessary to fund New South Wales hospitals. After all, those funds would be a mere return of the taxes collected from the people of New South Wales.

Mr **CATERSON** (The Hills), Opposition Whip [5.38]: I move:

That the honourable member for Canterbury, Mr K. J. Stewart, be not further heard.

Question put.

The House divided.

Ayes, 32

Mr Arblaster
Mr Boyd
Mr Brewer
Mr J. H. Brown
Mr Cameron
Mr J. A. Clough
Mr Dowd
Mr Duncan
Mr Fischer
Mr Fisher
Mrs Foot

Mr Freudenstein
Mr Greiner
Mr Healey
Mr King
Mr McDonald
Mr Mason
Mr Murray
Mr Osborne
Mr Park
Mr Pickard
Mr Punch

Mr Rozzoli
Mr Schipp
Mr Singleton
Mr Smith
Mr Sullivan
Mr Toms
Mr West
Mr Wotton
Tellers,
Mr Caterson
Mr Taylor

Noes, 55

Mr Akister
Mr Anderson
Mr Bannon
Mr Barnier
Mr Bedford
Mr Booth
Mr Brereton
Mr Britt
Mr Cavalier
Mr Cleary
Mr R. J. Clough
Mr Cox
Mr Crabtree
Mr Curran
Mr Day
Mr Degen
Mr Durick
Mr Einfeld
Mr Face

Mr Ferguson
Mr Gabb
Mr Gordon
Mr Haigh
Mr Hatton
Mr Hills
Mr Hunter
Mr Jackson
Mr Jensen
Mr Johnson
Mr Johnstone
Mr Keane
Mr McCarthy
Mr McGowan
Mr Mcllwaine
Mr Maher
Mr Mair
Mr Mallam
Mr Mochalski

Mr Neilly
Mr O'Connell
Mr O'Neill
Mr Paciullo
Mr Petersen
Mr Quinn
Mr Ramsay
Mr Rogan
Mr Ryan
Mr Sheahan
Mr A. G. Stewart
Mr K. J. Stewart
Mr Walker
Mr Wilde
Mr Wran
Tellers,
Mr Flaherty
Mr Wade

Resolved in the negative.

Mr K. J. STEWART: I ask the House to support the motion for all the reasons that the Government has evinced this afternoon.

Question—That the words stand—proposed.

Mr **WOTTON**: Mr Speaker ——

Mr FLAHERTY (Granville), Government Whip [5.47]: I move:

That the question be now put.

The House divided.

Ayes, 54

Mr Akister
Mr Anderson
Mr Bannon
Mr Barnier
Mr **Bedford**
Mr Booth
Mr Brereton
Mr Britt
Mr Cavalier
Mr Cleary
Mr R. J. Clough
Mr Cox
Mr **Crabtree**
Mr **Curran**
Mr Day
Mr Degen
Mr Durick
Mr Einfeld
Mr Face

Mr Ferguson
Mr Gabb
Mr Gordon
Mr Haigh
Mr Hills
Mr Hunter
Mr Jackson
Mr Jensen
Mr Johnson
Mr Johnstone
Mr Keane
Mr McCarthy
Mr McGowan
Mr **McIlwaine**
Mr **Maher**
Mr Mair
Mr **Mallam**
Mr Mochalski
Mr Neilly

Mr **O'Connell**
Mr **O'Neill**
Mr Paciullo
Mr **Petersen**
Mr Quinn
Mr **Ramsay**
Mr Rogan
Mr Ryan
Mr **Sheahan**
Mr A. G. Stewart
Mr K. J. Stewart
Mr Walker
Mr **Wilde**
Mr Wran

Tellers,
Mr Flaherty
Mr Wade

Noes, 34

Mr Arblaster
Mr Boyd
Mr Brewer
Mr J. H. Brown
Mr Bruxner
Mr Cameron
Mr J. A. Clough
Mr Dowd
Mr Duncan
Mr Fischer
Mr Fisher
Mrs Foot

Mr Freudenstein
Mr Greiner
Mr **Hatton**
Mr Healey
Mr King
Mr McDonald
Mr Mason
Mr Murray
Mr Osborne
Mr Park
Mr Pickard
Mr Punch

Mr Rozzoli
Mr Schipp
Mr Singleton
Mr Smith
Mr Sullivan
Mr Toms
Mr West
Mr Wotton

Tellers,
Mr **Caterson**
Mr Taylor

Resolved in the affirmative.

Question—That the words stand—put.

The House divided.

Ayes, 55

Mr Akister
Mr Anderson
Mr Bannon
Mr **Barnier**
Mr **Bedford**
Mr Booth
Mr Brereton
Mr Britt
Mr Cavalier
Mr **Cleary**
Mr R. J. Clough
Mr Cox

Mr **Crabtree**
Mr **Curran**
Mr Day
Mr Degen
Mr Durick
Mr Einfeld
Mr Face
Mr Ferguson
Mr Gabb
Mr Gordon
Mr **Haigh**
Mr **Hatton**

Mr Hills
Mr Hunter
Mr Jackson
Mr Jensen
Mr Johnson
Mr Johnstone
Mr Keane
Mr **McCarthy**
Mr McGowan
Mr **McIlwaine**
Mr **Maher**
Mr Mair

Mr Mallam
Mr Mochalski
Mr Neilly
Mr O'Connell
Mr O'Neill
Mr Paciullo
Mr Petersen

Mr Quinn
Mr Ramsay
Mr Rogan
Mr Ryan
Mr Sheahan
Mr A. G. Stewart
Mr K. J. Stewart

Mr Walker
Mr Wilde
Mr Wran

Tellers,
Mr Flaherty
Mr Wade

Noes, 33

Mr Arblaster
Mr Boyd
Mr Brewer
Mr J. H. Brown
Mr Bruxner
Mr Cameron
Mr J.A. Clough
Mr Dowd
Mr Duncan
Mr Fischer
Mr Fisher
Mrs Foot

Mr Freudenstein
Mr Greiner
Mr Healey
Mr King
Mr McDonald
Mr Mason
Mr Murray
Mr Osborne
Mr Park
Mr Pickard
Mr Punch
Mr Rozzoli

Mr Schipp
Mr Singleton
Mr Smith
Mr Sullivan
Mr Toms
Mr West
Mr Wotton

Tellers,
Mr Caterson
Mr Taylor

Question *so* resolved in the affirmative.

Amendment negatived.

Question—That the motion be agreed to—proposed.

Mr McDONALD: Mr Speaker—

Mr FLAHERTY (Granville), Government Whip [5.49]: I move:

That the question be now put.

The House divided.

Ayes, 54

Mr Akister
Mr Anderson
Mr Bannon
Mr Barnier
Mr Bedford
Mr Booth
Mr Brereton
Mr Britt
Mr Cavalier
Mr Cleary
Mr R. J. Clough
Mr Cox
Mr Crabtree
Mr Curran
Mr Day
Mr Degen
Mr Durick
Mr Einfeld
Mr Face

Mr Ferguson
Mr Gabb
Mr Gordon
Mr Haigh
Mr Hills
Mr Hunter
Mr Jackson
Mr Jensen
Mr Johnson
Mr Johnstone
Mr Keane
Mr McCarthy
Mr McGowan
Mr McIlwaine
Mr Maher
Mr Mair
Mr Mallam
Mr Mochalski
Mr Neilly

Mr O'Connell
Mr O'Neill
Mr Paciullo
Mr Petersen
Mr Quinn
Mr Ramsay
Mr Rogan
Mr Ryan
Mr Sheahan
Mr A. G. Stewart
Mr K. J. Stewart
Mr Walker
Mr Wilde
Mr Wran

Tellers,
Mr Flaherty
Mr Wade

Noes, 34

Mr Arblaster	Mr Freudenstein	Mr Rozzoli
Mr Boyd	Mr Greincr	Mr Schipp
Mr Brewer	Mr Hatton	Mr Singleton
Mr J. H. Brown	Mr Healey	Mr Smith
Mr Bruxner	Mr King	Mr Sullivan
Mr Cameron	Mr McDonald	Mr Toms
Mr J. A. Clough	Mr Mason	Mr West
Mr Dowd	Mr Murray	Mr Wotton
Mr Duncan	Mr Osborne	
Mr Fischer	Mr Park	<i>Tellers,</i>
Mr Fisher	Mr Pickard	Mr Catterson
Mrs Foot	Mr Punch	Mr Taylor

Resolved in the affirmative.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 55

Mr Akister	Mr Ferguson	Mr Neilly
Mr Anderson	Mr Gabb	Mr O'Connell
Mr Bannon	Mr Gordon	Mr O'Neill
Mr Barnier	Mr Haigh	Mr Paciullo
Mr Bedford	Mr Hatton	Mr Petersen
Mr Booth	Mr Hills	Mr Quinn
Mr Brereton	Mr Hunter	Mr Ramsay
Mr Britt	Mr Jackson	Mr Rogan
Mr Cavalier	Mr Jensen	Mr Ryan
Mr Cleary	Mr Johnson	Mr Sheahan
Mr R. J. Clough	Mr Johnstone	Mr A. G. Stewart
Mr Cox	Mr Keane	Mr K. J. Stewart
Mr Crabtree	Mr McCarthy	Mr Walker
Mr Curran	Mr McGowan	Mr Wilde
Mr Day	Mr McIlwaine	Mr Wran
Mr Degen	Mr Maher	
Mr Durick	Mr Mair	<i>Tellers,</i>
Mr Einfeld	Mr Mallam	Mr Flaherty
Mr Face	Mr Mochalski	Mr Wade

Noes, 33

Mr Arblaster	Mr Freudenstein	Mr Schipp
Mr Boyd	Mr Greiner	Mr Singleton
Mr Brewer	Mr Healey	Mr Smith
Mr J. H. Brown	Mr King	Mr Sullivan
Mr Bruxner	Mr McDonald	Mr Toms
Mr Cameron	Mr Mason	Mr West
Mr J. A. Clough	Mr Murray	Mr Wotton
Mr Dowd	Mr Osborne	
Mr Duncan	Mr Park	
Mr Fischer	Mr Pickard	<i>Tellers,</i>
Mr Fisher	Mr Punch	Mr Catterson
Mrs Foot	Mr Rozzoli	Mr Taylor

Question so resolved in the affirmative.

Motion agreed to.

[Mr Speaker left the chair at 5.55 p.m. The House resumed at 7.30 p.m.]

CRIMES (SEXUAL ASSAULT) AMENDMENT BILL
CHILD WELFARE (AMENDMENT) BILL

Introduction

Motion (by Mr Wran) agreed to:

That leave be given to bring in the following cognate bills:

- (i) A bill for an Act to amend the Crimes Act, 1900, so as to abolish the crime of rape, to create three new offences of sexual assault and to make certain provisions relating to those and other offences, including provisions relating to evidence in sexual assault proceedings and for other purposes.
- (ii) A bill for an Act to amend the Child Welfare Act, 1939, with respect to the committal of children and young persons to trial.

Bills presented and read a first time.

Second reading

Mr WRAN (Bass Hill), Premier and Treasurer [7.30]: I move:

That these bills be now read a second time.

This is an historic measure and one of the most important reforms this Government has ever presented to this Parliament. The object of the principal bill—the Crimes (Sexual Assault) Amendment Bill—is to remedy major defects in the law relating to rape and sexual assault. These reforms are designed to protect the victims of rape from victimization under the legal process; to encourage rape victims to report offences to the authorities; to facilitate the administration of justice and the conviction of guilty offenders; at the same time, to preserve the rights of the accused; and to serve an educative function in further changing community attitudes to sexual assault.

Rape is an act of violence aimed at subjugation, debasement and humiliation. It is an extreme act of physical aggression by one person against another. It is one of the most serious of all crimes and it is the most unreported of all crimes. Fear of social stigma, public humiliation in court, family disruption, and retribution from the offender are some of the reasons why victims fail to report rape. In introducing these bills, I am confident that they have clear and firm community support. The Government is confident that they can be effectively administered and will help protect rape victims from further suffering and humiliation, but at the same time will not infringe basic principles of justice in relation to a person accused of serious crime. It is more than three years since my colleague the Attorney-General and Minister of Justice tabled in this House the report of the criminal law review division into rape and other sexual offences. The issues raised in that report led to the Women's Advisory Council sponsoring a seminar on changes to sexual offences legislation in May, 1978. Since the seminar in 1978, the report of the task force into the care of victims of sexual

offences was published and the HELP centres for victims of sexual assault were established at ten major hospitals throughout the State. A national conference on law reform relating to rape and associated sexual offences was held in Hobart in May, 1980.

The conference was jointly organized by the Tasmanian Law Reform Commission, the Australian Institute of Criminology and the Law Faculty of the University of Tasmania. That conference strongly recommended reform of the law and passed resolutions on specific aspects of reform. In August, 1980, the Women's Advisory Council published a "Position Paper on Reform of New South Wales Rape Legislation", **containing** fourteen principal recommendations substantially based on the resolutions agreed to at the national conference on rape law reform in Hobart. Five thousand copies of the position paper were distributed, nine country centres were visited and a large number of submissions and comments were received indicating widespread and strong support for the fourteen proposals in the position paper. That paper, and the contributions **made** by all of those involved in the consultation process, have formed the basis for this legislation.

I take this opportunity to express the Government's deep appreciation to all those who have been involved in the work of establishing the principles embodied in this bill. The work of the Women's Advisory Council has been splendidly done. They and department officers have been assisted in their task by a large number of other people who have expressed their views, given counsel and advice—private citizens, members of religious bodies, members of the legal profession, members **of** the judiciary, the police and the community organizations. The outcome is **the** result of consultation to the greatest possible degree with all sections of the community. It is a bill which has widespread community support and one which, as leader **of** the **Government**, I, in collaboration with my colleague the Attorney-General and Minister of Justice, am proud to introduce into this Parliament.

One of the most tragic aspects of crimes of rape or sexual assault **is** that the victim of the crime **suffers** some form of stigma. Whether this completely irrational phenomenon is ingrained in societal attitudes because society has been basically **male**-dominated, whether it is because of the historical status of women, which in past ages led to the crime of rape being regarded as an offence against man's property, or whether it is embedded in the legal system itself is open to profound debate. There is no doubt, however, that the humiliation, the fear of rape stigma, the treatment which victims have received by law enforcement and judicial authorities have increased the suffering of victims. Many rape victims have been reluctant to report the crime and to seek legal justice. They have feared the shame of public exposure, they have feared **the** complex double standard which appears to condemn the victims for any act **of** sexual aggression committed against them, and they have feared the humiliation they face in the courts. That humiliation involves their being forced to recount, not once, but at least twice in minute detail, the most humiliating and degrading experience they have ever gone through, and then to suffer under cross-examination the imputations and insinuations about the victim's own responsibility for the offence and against the victim's character and morals.

The common law has also laid down different rules for sexual assault offences. Different rules of evidence relating to corroboration and prior sexual history operate against a complainant in a sexual assault case more stringently than apply in any other criminal trials. The changes to be effected by this bill are designed to ease, so far as is possible, the humiliation experienced by sexual assault victims, to remove the stigma attached to the rape victim, to encourage victims to report the offences, and to bring

the offenders to justice as justice demands. Shortly my colleague the Attorney-General and Minister of Justice will outline to honourable members the detailed provisions of the bill. I desire merely to highlight here some of the more significant aspects.

In the first instance the term rape is to be removed from the Crimes Act and the term sexual assault used in its place. Because of its historical and social associations and connotations, the term rape is highly **stigmatizing** for the victim. Our advisers believe that the removal of this word will assist in limiting the unwarranted feelings of shame and guilt which many victims feel and, it is hoped will encourage the reporting of sexual assaults. Let me state quite clearly that the conduct which presently leads to a charge of rape will continue to be a crime punishable by imprisonment under the new legislation. Indeed, it will be replaced more comprehensively.

At the same time the legislation introduces a new series of categories for sexual assault offences. There will be four categories graded in relation to the seriousness of the offence, to which different penalties are to apply. A category 1 **offence**—that of inflicting grievous bodily harm with intent to have sexual intercourse—will attract a maximum penalty of 20 years' penal servitude. The other categories, being progressively less serious in nature, will attract appropriately lesser penalties. We are convinced that the penalties set out under the new law will not weaken its effect, but are designed to strengthen it.

Honourable members will be aware that the present maximum penalty for rape is penal servitude for life. The New South Wales statistics for 1979 reveal that forty-six individuals were convicted and sentenced for this offence. Of those forty-six, none received the maximum penalty. In fact, none was sentenced to longer than 16 years, and only seven to more than 10 years. In total, 85 per cent of those convicted of rape in New South Wales in 1979 were sentenced to 10 years or less. This bill sets new maximum penalties of 7, 12 and 20 years for the three major categories of **sexual** assault.

This legislation imposes criminal liability on persons rather than on males or females. Gender neutrality is reflected in the wording of the bills. The principle of equality of all persons before the law is advanced by the fact that the wording of **the** legislation is gender neutral to the greatest extent possible. A sexual assault is equally traumatic whether the victim is male or female; and the gender of the assailant does not affect the offensive nature of the attack. The principle of gender neutrality also places the laws relating to sexual assault on a similar footing with the general criminal law. As general principles, the Government seeks to place less emphasis on the sexual aspect and more on the aspect of violence in **sexual** assault cases, and to bring the laws into conformity with laws on other criminal matters.

In bringing the law into conformity with current **thinking**, the bill nullifies the rule, applicable under the common law, that a husband may not be convicted of raping his wife. This **provision** in the bill has perhaps attracted more **publicity** than any of the others, but it has been almost unanimously supported by all who have contributed to the formulation of the bill. Commenting on this proposal, the *Catholic Weekly* editorial of 23rd November, 1980, said that the reform—

. . . seems to be in line with church teaching—that marriage is of two free and equal persons, whose matrimonial consent gives to neither party absolute power over the body of the other. As such, it deserves our support.

Mr Wran]

I quote the following extracts from the submissions to the Women's Advisory Council. The Anglican Archbishop of Sydney, Sir Marcus Loane, said:

May I say that I think your proposals are reasonable and constructive and I hope will form the basis of fresh legislation which will be more generous and understanding of the position of a woman in such circumstances.

Dame Monica Gallagher, D.B.E., State president, Catholic Women's League, New South Wales, said:

The proposals are admirable in their scope and go far towards equality for both men and women.

Mary Pulsford, president, Young Women's Christian Association, stated:

The Board of Directors of the Y.W.C.A. of Sydney is in agreement that current laws and procedures relating to rape and sexual assault should be amended . . . The proposals indicate the philosophy which the Board of Directors agrees should be embodied in new legislation.

Other principal provisions in the bill introduce an extended definition of sexual intercourse; require the judge to warn the jury that there may well be **good** reason for the delay on the part of a victim in complaining of a sexual assault; will avoid the necessity for the victim of a sexual assault being forced into the witness box to undergo cross-examination at committal proceedings where the accused pleads **guilty**; and **will** abolish the mandatory requirement upon judges to warn juries that it is unsafe **to** convict the accused upon the uncorroborated evidence of the alleged victim.

Finally, the bill will prohibit irrelevant questioning of sexual assault victims about their prior sexual behaviour. This provision is based upon the premise that a person who seeks sexual intercourse with another should not be able to rely on scandal or gossip about the other person or on **rumour** or knowledge of that other person's sexual **behaviour** with others, as a basis for assuming consent to intercourse. The law should not—and under this legislation will not—allow the accused to subject the victim of the sexual assault to humiliating and irrelevant questioning about details of previous sexual conduct and attitudes. At the present time many victims believe that the humiliation they would face as a witness in court outweighs all other considerations. I have every confidence that this provision will play a significant part in encouraging victims to report offences, and ensure that such victims will be treated justly and humanely by the judicial system.

As I indicated, my colleague the Attorney-General and Minister of Justice will refer in detail to these and other important aspects of the bill. The proposals have been shaped after the widest consultation. Every submission and suggestion has been taken carefully into consideration. The final bill is the result of co-operation to the highest degree between Ministers, between departmental officers and with many **members** of the community. My Government is resolved to ensure that the legislation commences as soon as possible and that its commencement is associated with the dissemination of information to make all members of the community aware of its contents.

To give effect to the Government's proposals, the training branch of the Police Department has its police education programme planned already for implementation after the bills take effect. The women's co-ordination unit, in conjunction with the criminal law review division, is preparing a pamphlet for wide distribution by the Women's Advisory Council. Lectures have been scheduled for HELP Centre personnel. Two booklets are also underway for HELP Centre staff and victims of sexual assault. As well, the news media is taking a keen and responsible attitude to the reforms and thus assisting greatly in community education.

This Government fully agrees with concerned women that law reform is only a part of the whole process of reform. The Government's further efforts to assist victims of sexual assault and violence include: the establishment and management of ten HELP Centres for victims of sexual assault; recurrent funding of the Rape Crisis Centre and women's health centres; the production of a film, "Violation", for training purposes; the development of a teachers' resource kit to cover the areas ranging from sexual harassment to sexual assault; recurrent and one-off funding of women's refuges; a task force on domestic violence; and the Public Service Board's policy on sexual harassment. I believe that this is an historic and humane measure that has been carefully drafted after extensive consultation with all sectors of the community. I commend the bills to all honourable members. My colleague the Attorney-General and Minister of Justice will now explain their detailed provisions.

Mr WALKER (Georges River), Attorney-General and Minister of Justice [7.47]: The Premier and Treasurer has outlined the purposes and history of this legislation. In presenting the detailed examination of the measure on his behalf I shall not traverse the same ground except to say initially that these bills undoubtedly represent the views of a substantial majority of the public. The careful process of public consultation, which the Women's Advisory Council undertook, makes it clear that almost all women want to see reform of the sexual assault laws. I believe that all fair-minded men would be in agreement, and that the ranks of those who will oppose these bills will be thin indeed. Suffice it to say at this point that these reforms have massive community support: and well they should, for rape is principally abuse of power and an act of humiliation. Since the beginning of recorded history, anecdotes of rape have been recorded in the literature of eastern and western countries. Marjorie Levis made the following analysis of rape at the May 1980 national conference on rape law reform:

In determining the need for a reassessment of rape as a cultural fact, it is necessary to look at historical attitudes to rape. These are the bases of myths surrounding rape and consequently the way legal systems and agencies deal with it . . . Brownmiller suggests that rape entered the law through the back door—as a property crime of man against man. She describes how, in ancient Babylonian and Mosaic Law a bride price was set—50 pieces of silver—paid to the virgin's father. The theft of the commodity "virginity" was seen as embezzlement of his daughter's fair price. In Hammurabi's code, women had no independent status. They were either betrothed virgins or lawfully wedded wives. If a man raped a betrothed virgin his punishment was death and she was held to be guiltless. However, if a married woman was raped, she was held to be equally culpable—both participants were bound and thrown into the river. A husband was permitted to pull his wife from the river and the King could pardon a male offender. The Ancient Hebrews, being rather short of rivers, made the punishment of raped married women and their rapists death by stoning . . .

Concepts of rape and punishment in early English Law are a maze of contradictory approaches reflecting a gradual humanization of the law, but the confusion was not resolved as to whether the crime was a crime against a woman's body or a crime against the man's estate. While early English rape law concentrated on rapes of virgins—and only high born virgins at that—by the thirteenth century rape of married women, dames or damsels, was punishable by death—if the rapist was found guilty, of course—and thereby hangs the greatest dichotomy. Argument continued and still continues about the "good fame" of the rape victim.

Given this historical background it is not surprising that authorities agree that rape is one of the most underreported crimes. Humiliation, fear of stigma, judgmental

treatment by authorities, fear of family **difficulties** and disruptions, and drawn out legal proceedings are some of the reasons why women do not report sexual violence. Some other realities worthy of note are that nearly 50 per cent of rapes take place **in** the home of the victim, and 70 per cent of all rapes are committed by men known **to** the victim; females' learned helplessness makes them unprepared to resist attack; and submission does not necessarily imply consent. Women have the right to go out at night. Neither men nor women have the total prerogative on lying. Also, people like to look sexually attractive.

Those realities must be assessed against myths which, though rapidly being debunked, are still far too prevalent. Some of these myths are: "If a woman resists she can't be raped"; "Good women don't get raped"; "She got what she deserved with her suggestive dress or her provocative behaviour"; "She was asking for it by hitchhiking and/or going to that bar"; and "Rape is every woman's sexual fantasy". At the very centre of the proposals is the restriction in new sections **409B** and **409C** on the admissibility of **material** concerning prior sexual history.

The deficiency of the present law is that a victim may be cross-examined about sexual behaviour with other persons, possibly years before, in circumstances quite irrelevant to the case in question. For example, if an intruder breaks into a house and sexually assaults a married woman whose husband happens to be away on holidays, it is surely ridiculous to allow the woman giving evidence against the alleged rapist to be questioned about whether, for example, she had intercourse with anybody other than her husband before she got married. The fear of this type of cross-examination **has** been a potent cause of reluctance on the part of women to report sexual assault. The old law and practice, therefore, has actually been a cause of crime. It has discouraged the reporting of crime, and encouraged criminals in the knowledge that they could escape prosecution.

The old law was thoroughly bad and the Government intends to change it extensively. Throughout this speech examples will be given to explain various reforms. A policy of the amendments is to achieve gender neutrality and the words he or she as they appear are taken from actual examples in which the victims have been female and the offenders male. The principal bill does this in new sections **409B** and **409C**. Section **409B (3)** will provide:

In prescribed sexual offence proceedings, evidence which discloses or implies that the complainant has or may have had sexual experience or a lack of sexual experience or has or may have taken part or not taken part in any sexual activity is inadmissible **except—**

The bill then goes on to list specific exceptions to this blanket prohibition, each being intended to cover an area where fairness requires that some evidence or cross-examination as to prior sexual history be permitted. Even when one of the exceptions applies, however, it does not necessarily follow that the evidence or question will be allowed. The judge or magistrate must be satisfied also that its value as proof outweighs any distress, humiliation or embarrassment that the witness might suffer if the evidence or question were allowed. This is strong protection for the victim—indeed, a double protection. First, the evidence must specifically come within one of the permitted categories; and second, the court must decide that the probative value of the evidence outweighs any humiliation or distress it may cause. This is a distinctly stronger protection for the victim than a mere judicial discretion to disallow any irrelevant question.

The Government has deliberately opted for this course in view of the long-standing practice of the courts to allow wide-ranging and really irrelevant cross-examination as to prior sexual history. This legislation is intended to alter both the

theoretical law and the actual practice of the courts as to the reception of evidence about prior sexual history. Let there be no doubt about that. Since these laws involve the rights of accused persons, the courts **will** probably be reluctant to interpret provisions as changing past practice unless the change is specifically mandated in the legislation, and accordingly the bill does so. As we have seen, new section **409B** starts with a general prohibition against the reception of evidence about prior sexual history. The first exception is found in proposed section **409B** (3) (a) which refers to evidence. It provides:

- (a) where it is **evidence**—
 - (i) of sexual experience or a lack of sexual experience of, or sexual activity or a lack of sexual activity taken part in by, the complainant at or about the time of the commission of the alleged prescribed sexual offence; and
 - (ii) of events which are alleged to form part of a connected set of circumstances in which the alleged prescribed sexual offence was committed.

This allows evidence to be given—and questions asked—about the actual facts of the incident in question. For example, the complainant may give evidence of the actual assault or assaults alleged, and the police doctor may give evidence that upon examination the hymen of the victim had been recently broken, indicating that she was a virgin prior to that time. From the accused's viewpoint, this section is particularly important in so-called pack assault situations. The accused may cross-examine the complainant about whether or not she had had intercourse with another person or persons immediately before the intercourse with him. The key words here are "at or about the time" of the alleged offence. However he cannot inquire or bring evidence about the complainant's sexual behaviour with other persons last week, or last month or last year. He may ask only about such behaviour "at or about" the time he is alleged to have committed the offence, and where the events involve connected circumstances.

The accused in a sexual assault case will still be able to raise the defence, where consent to intercourse is an issue, that he honestly believed that the complainant consented to intercourse. But he will be prohibited from saying: "I saw the complainant having intercourse with someone else last week, so I honestly believed she was consenting to intercourse with me this **week**". But he can use, as the basis for a defence of honest belief, the sexual behaviour of the complainant at or about the time he is alleged to have committed the offence, provided that the behaviour is part of a connected set of circumstances. There would be a considerable degree of artificiality about any rule more restrictive than that set out in proposed section **409B** (3) (a), and the Government takes the view that this provision protects the legitimate rights of both complainant and accused.

The next exception, set out in new section **409B** (3) (b), will allow evidence where it touches on a relationship which was existing or recent at the time of the commission of the alleged prescribed sexual offence, being a relationship between the accused person and the complainant. For example, if the accused and complainant have been living together for years, the accused may legitimately ask such questions as: "We lived together for three years? And you consented to sexual intercourse with me many times during that period?"

Such interrogation is obviously genuinely relevant, and could not be regarded as distressing or humiliating. On the other hand, the accused cannot reasonably give evidence that five years ago the accused and the complainant had a relationship, and hope to have the jury infer consent on the basis of that. It will be a matter for the

Mr Walker]

courts, in the circumstances of particular cases, to determine what is or is not recent. The third exception to the general prohibition is contained in section 409B (3) (c) in the following circumstances:

Where —

- (i) the accused person is alleged to have had sexual intercourse, as defined in section 61A (1), with the complainant and the accused person does not concede the sexual intercourse so alleged; and
- (ii) it is **evidence** relevant to whether the presence of semen, pregnancy, disease or injury is attributable to the sexual intercourse alleged to have been had by the accused person.

For example, the complainant alleges that the sexual assault caused certain injuries, perhaps bruising or cuts. If the accused denies that intercourse occurred at all, and says that the offence must have been committed by someone else, it would not be fair to deprive him of the right to cross-examine the complainant as to whether the **complainant** had, at around the relevant time, been having intercourse with another person or other persons. Such another relationship might, of course, explain the true identity of the attacker. However, where the accused is not denying that he had intercourse, and his defence is that the complainant consented to intercourse, he should not then be entitled to cross-examine about the complainant's sexual behaviour with other persons, unless such cross-examination would be permitted under another subsection of new section 409B. The next exception is contained in new section 409B (3) (d) in the following circumstances:

Where —

- (i) at the time of the commission of the alleged prescribed sexual offence, there was present in the complainant a disease which, at any relevant time, was absent in the accused person; or
- (ii) at any relevant time, there was absent in the complainant a disease which, at the time of the commission of the alleged prescribed sexual offence, was present in the accused person;

For example, the **complainant** may allege that not only was she sexually assaulted by the accused, but also she became infected by him with a sexually transmitted disease. Naturally it should be a possible defence for the accused to suggest or prove that he had not had the relevant disease at the relevant time, and that the complainant may have acquired the disease from some other source. Conversely, if the accused can show that at the time of the alleged offence he was suffering from a highly contagious sexual disease, and that the complainant did not catch any disease, that is material which a jury should rightly be entitled to consider.

The wording of subsection (3) (d) (ii) of proposed section 409B is necessary to entitle the accused to ask the complainant whether at any relevant time she was or was not suffering from a sexually transmitted disease. Failing such a specific provision, of course, that question would be disallowed, because it tends to point to sexual experience or the lack of it. Proposed section 409B (3) (e) will allow evidence of prior sexual history:

Where it is evidence relevant to whether the allegation that the prescribed sexual offence was committed by the accused person was first made following a realization or discovery of the presence of pregnancy or disease in the complainant (being a realization or discovery which took place after the commission of the alleged prescribed sexual offence);

This provision allows for the kind of case where an allegation of sexual assault is made only after the complainant realizes or discovers that she is pregnant or diseased. By no means is it to be thought that a complaint made in such circumstances would automatically be discounted, but in fairness it ought to be possible for such a possibly significant fact to be brought out and investigated by the court.

An example of the operation of that provision might be as follows: a young woman goes on a holiday and has intercourse with four different men. She subsequently becomes pregnant, or manifests the symptoms of a sexually transmitted disease and is subjected to parental criticism. She conceals the scope of her experience and alleges rape by one of the four people with whom she has had intercourse. **This** accused ought to be able to bring out the fact of pregnancy or disease, which may not have been revealed in the prosecution case. Also, he ought to be entitled to bring out the evidence about the consenting intercourse with others at or around the relevant time, which a jury might believe—when coupled with the delay in complaint—to be significant. This is a very limited exception.

Proposed section 409B (3) (f) has to be read in conjunction with proposed section 409B (5). It will allow cross-examination concerning prior sexual history where it has been disclosed or implied in the case for the prosecution that the complainant was of particularly limited sexual experience at the time of the alleged offence. For example, if it is said by the prosecution that the complainant was a chaste married woman, or a virgin, the accused ought to be entitled to cross-examine about that. Just as the fact of prior sexual experience with others ought not be used prejudicially against the complainant witness, the fact of the complainant having limited or no prior sexual experience ought not be used prejudicially against the accused.

Thus if it is somehow suggested during the prosecution case—for example through the evidence of the police surgeon—that the complainant was a virgin prior to the events, then the accused may explore that matter by cross-examination, if he sees any benefit in it. However, he may not bring a string of witnesses to say that they had had consenting intercourse with the complainant before the incident in question. Such evidence is not admissible under this provision. If the complainant tells lies in court about his or her chastity, the appropriate solution is a prosecution for perjury.

Proposed section 409s (6) provides that any question as to the admissibility of prior sexual history evidence **must** be decided in the absence of the jury. Proposed section 409B (4) will prohibit the asking of prior sexual history questions without a previous determination by the court that the question is permissible. Proposed section 409c completes the aim of new section 409B by providing that where the accused makes an unsworn dock statement, he may not make reference to the complainant's prior sexual history except to the extent that evidence on that subject would have been admissible had the accused given evidence on oath. If the accused transgresses against this rule, the judge shall tell the jury to disregard the prohibited matter. As I said previously, this is an impingement upon the dock statement, but no more than is absolutely necessary. Without such a provision, the prior sexual history aspects of the bill could have been seriously eroded—indeed, negated.

Apart from the question of prior sexual history, the husband's immunity from prosecution is the issue that has attracted most attention in these reforms. The Premier and Treasurer has pointed out that the view that a husband should have a legal right to compel his wife by force to submit to sexual intercourse is intolerable. I hope that the Opposition will take the sensible course on this point, and graciously accept that **the** Government's proposal has overwhelming public support.

Mr Dowd: Absolute rubbish.

Mr WALKER: The proposal to abolish the husband's immunity from prosecution for rape was not even proposed by the women in his own party, when they responded to the working paper put out by the Women's Advisory Council.

Mr Dowd: That is not correct.

Mr WALKER: I note, however, that the honourable member for Lane Cove put out a press **release** in which he **expressed** opposition to the abolition of the husband's immunity. Though his interjections suggest I am wrong, I hope that, during the several months since then, his better judgment has prevailed and that he will not now oppose section 61A (4), the relevant provision. To delete proposed section 61A (4) from the bill would be a hollow exercise, because such deletion would not change the legal position, as he no doubt knows.

Under new section 63 the common law offences of rape and attempted rape are to be abolished, no immunity for a husband would in any event continue to exist, because there is not, nor has there been, any equivalent immunity for sexual assault—the general description under which the concept of rape will now be subsumed. Proposed section 61A (4) will merely put beyond doubt, and in the statute, what is the common law. Will the honourable member for Lane Cove suggest the deletion of new section 61A (4), and that there should be a completely new and additional immunity for husbands to assault their wives sexually? I look forward to seeing how he will get round that protection. I should imagine that any such proposal would hardly be acceptable to the women members of his own party, much less to the public at large or even to his wife.

Mr Dowd: The Minister should leave personalities out of it.

Mr WALKER: His only alternatives, then, are to suggest the deletion of new section 61A (4)—a completely empty gesture, as I have explained—or to bow to logic **and** commonsense by supporting the Government's proposal. I hope he adopts the latter approach.

I turn now to deal with the categories of offences to be established under the new legislation, as set out in new sections 61B to 61G. The four categories will be: in category 1, new section 61B provides a 20-year maximum sentence for inflicting grievous bodily harm with intent to have sexual intercourse. In category 2, new section 61C provides a 12-year maximum sentence for **inflicting** actual bodily harm with intent to have sexual intercourse. In category 3, new section 61D provides a 7-year maximum sentence for sexual intercourse without consent. In category 4 new section 61E provides a sentence of four years maximum—six years for indecent assault if the victim is under 16 years of age.

There is a powerful argument for the gradation of offences into various categories of seriousness. Under the present law of rape, the maximum penalty is penal servitude for life. For practical purposes, this is the heaviest penalty in the criminal calendar. The fact that it is potentially available in respect to persons convicted of the least serious, as well as the most serious rape cases, causes two major problems. In a nutshell, women who have been raped are often dissuaded from pressing a legitimate claim, and accused persons who are clearly guilty of a less serious rape are deterred from pleading guilty when the best thing all round is that they should do so.

Let me explain these points more fully. First, when a woman has been raped it frequently turns out the offender is someone known to her. Frequently he will be young—aged, say, 18, 19, or 20 years. The victim is then often subjected to attempts

to pressure her into not proceeding with the complaint, and the type of thing said is, "Don't take it to court. He will get life imprisonment. He is only nineteen, don't send him away forever." This sort of moral pressure is misleading, because most convicted rapists receive a sentence much less than penal servitude for life, but it is a powerful emotional argument directed at a victim in an emotional condition. The mere theoretical possibility of a life penalty being imposed appears intimidating. It seems that a number of rape victims do feel worry and concern at the prospect that they may, by their evidence in court, put the accused in danger of being sentenced to penal servitude for life.

Mr Dowd: That is absolute rubbish.

Mr WALKER: This may seem at first somewhat **difficult** to believe, especially to the members of the Opposition who do not spend time in **their** electorates in **talking** to people, but experienced people say that rape victims often feel embarrassed and even guilty about the offence, even though completely innocent themselves. In those circumstances, especially if the offence has not involved the **infliction** of physical injury, they may be discouraged from pressing charges. If the honourable member for Lane Cove had taken the trouble to speak to anyone in a rape crisis centre he would not have been sneering and carrying on in the way that he has been for the past couple of minutes.

Under the new law, it will be possible for defendants to be charged with a category 3 offence, attracting a maximum penalty of seven years' penal servitude, if the assault does not involve the infliction of physical injury. Thus, the sort of moral blackmail I have described above will no longer be possible.

The second major problem flowing from the fact that under the old law there is simply one offence of rape, attracting a life penalty, is that the size of the theoretical maximum penalty deters offenders who might otherwise plead guilty from doing so. A lawyer who appears for anyone charged with *an* offence attracting a possible life sentence is usually extremely reluctant to advise a plea of guilty, and this attitude is understandable. The accused must be advised that although a life sentence may be unlikely, it is still legally possible. Naturally, therefore, the proportion of guilty pleas in rape cases has not been as high as it might be. However, an accused facing a possible maximum of seven years under the category 3 offence will be relieved of the fear that, by pleading guilty, he may go to prison forever. Similarly, counsel may then be able to advise a guilty plea without fear that an error of judgment on his part may send the client to prison for life. In short, it is expected that there will be more pleas of guilty, in proper cases, under the new law than under the old.

That is an important point. The trial itself will always be an ordeal **for** the victim, although much less so under the new laws. If **an** accused knows he is guilty, he should be encouraged to say so and take the sentence imposed on him. He himself is relieved of the ordeal of trial, the victim is relieved of the ordeal, and the public **need** not bear the cost of an unnecessary and expensive legal proceeding. On the other hand, nothing in the new law will coerce an accused **into** a plea of guilty. If he believes he is innocent, or if he wants to put the prosecution to its proof, he is perfectly entitled to have his trial. There is no doubt or question about that. He should not be penalized for going to trial if he wishes to. Nonetheless, as I have said, he should not be artificially dissuaded from a plea of guilty in proper circumstances. These considerations go towards explaining why the single offence of rape is to be replaced by a series of offences of varying degrees of seriousness.

In support of the proposed new structure there are compelling statistics on the number of guilty pleas entered in rape cases compared with other crimes. The latest figures available from the new computer facilities in the Bureau of Crime Statistics and Research cover the year 1979. These show that in criminal cases prosecuted in the higher courts in New South Wales in 1979, 81 per cent of all accused pleaded guilty, and only 19 per cent of accused insisted on their right to be tried by a jury. But in rape prosecutions, only 38 per cent of defendants pleaded guilty, meaning that in almost two-thirds of the cases the victim had to go through the process of giving evidence and having the memory of the ordeal revived. This startling contrast must be related to the life penalty currently attaching to the crime of rape. Only for murder and manslaughter—both of which attract the life penalty—do the statistics show fewer accused pleading guilty. The crime of robbery shows 87 per cent pleading guilty, assault 72 per cent, extortion 92 per cent, and drug offences 74 per cent.

The point becomes clearer when we compare the guilty plea rate for rape and attempted rape. For rape, the current maximum penalty, as I have said, is life imprisonment, and the guilty plea rate is 38 per cent. For attempted rape, the guilty plea rate is nearly double, namely 69 per cent. The point is that under the present law the penalty for attempted rape is a fixed, definite figure—not life. It seems fairly clear that guilty defendants are more prepared to plead guilty if they recognize that the penalty available is not disproportionate. As these facts show, the penalties set out under the new law will not weaken the effect of the law. In truth, they will strengthen it. It is unrealistic to continue to have available for rape a maximum life penalty if it functions to deter the genuinely guilty from pleading guilty in the first place. The figures suggest strongly that this in fact occurs.

The 1979 sentencing statistics show that the setting of penalties in the new law at maximums of seven, twelve and twenty years for the three major categories is proper and justifiable. Figures extracted by the Bureau of Crime Statistics and Research for all rape and attempted rape sentences between 1972 and 1979 inclusive show that the average of all prison sentences for rape and attempted rape over that period was seven years and the maximum sentence imposed during that period—only one such sentence—was twenty years. The new sentencing structures will reflect the reality of this sentencing pattern, and for the benefit of the House I shall have the details of these statistics incorporated in *Hansard*. I am convinced that what the public demands is not merely retribution against rapists, but an effective legal and educational programme against sexual violence. Some people wrongly believe that we could solve the problem just by reliance upon heavy maximum penalties. They could not be further from the truth.

The problem with sexual violence is not in punishing the offender, but in stopping him from offending in the first place. It is useless imposing horrible penalties on ten rapists if ninety escape detection or are not effectively brought to justice. The law then has no deterrent effect, even though the penalty theoretically available may be high. What is necessary is a legal and administrative system under which victims of sexual assault—particularly women—feel confident that they can report the offence and know that they will be treated in a civilized fashion, that they will not be unfairly harassed in court, and that a just penalty will be imposed on any offender. The entire structure of the new laws is aimed towards achieving such a result.

The next major consideration is that the two most serious offences are defined—in proposed section 61B and 61C—so as to exclude from the ingredients of the offence the requirement that the Crown must prove intercourse without consent before the offence can be established. This must be proved to make out the offence of rape.

It has been repeatedly urged by sexual law reformers that the focus of the law upon the sexual aspect of rape—that is, the intercourse—rather than the violence aspect ought to be modified. The definitions in proposed sections 61B and 61C—category 1 and category 2 offences—are designed to give effect to this. The category 3 offence—proposed section 61D—**cannot** be so structured, as its essence is intercourse without consent but without the infliction of physical injury. To prove the category 1 offence the prosecution must show beyond reasonable doubt that the accused inflicted grievous bodily harm upon the victim, with the intention at such time to have sexual intercourse. The primary focus is thus placed upon the violence, although the intention to have sexual intercourse must also be demonstrated. Such intention will often, but not always, be proved by demonstrating that sexual intercourse occurred following the violence.

The proof of non-consenting intercourse will thus be strictly unnecessary for the Crown in making out the ingredients of a category 1 or category 2 sexual assault but, even so, the issue may still be raised. It may be raised by the accused asserting that consenting sexual intercourse occurred, and that in the course of such consenting **intercourse**, injuries to the victim happened by accident. It would be unfair and unreasonable to structure the law to exclude this defence, and the new law has not done so. What the new structure does is not to remove consent to intercourse entirely as an issue, but to downgrade it in emphasis. This is as far as it is possible to go in responsible reform of the law. The primary emphasis will now be placed on any violence which occurred, and the Crown must thereafter prove only an intention to have sexual intercourse. It is expected that the detailed questioning as to the anatomical aspects of penetration and intercourse which has in the past been routine will in future be diminished, although inevitably it cannot be entirely removed if the defence alleges consent.

The same comments generally apply to the category 2 offence, which is the infliction of actual bodily harm with intent to have sexual intercourse. This offence attracts a maximum penalty of 12 years. By contrast with grievous bodily **harm**—something which the jury considers to be really serious bodily injury, actual bodily harm may be constituted by any bodily injury above the trivial. Bruising, a bloody nose, or a cut can be actual bodily harm. Again in category 2 the law will place primary emphasis on the violence. If there is evidence that a person has been maliciously bruised, cut or otherwise injured, and that intercourse followed, common sense tells us that the intercourse probably occurred without consent. The offence will be made out if the malicious injury and the intention to have intercourse are proved. Of course the accused can raise the issue of consent if he wishes to. He may say that consenting intercourse occurred, and the bruises or cuts resulted as a natural part of the intercourse. Whether to believe that this is a reasonable possibility will be, as now, a matter for the jury to decide.

But it is not only the infliction of actual bodily harm which will suffice to bring a case within category 2. Cases sometimes arise where the use of a gun, knife or other offensive weapon is threatened against a victim, and naturally such a threat also will be punishable under category 2.

Although generally the threat necessary for a category 2 offence must be a threat of injury by an offensive weapon, there is one other type of threat, of a particularly nasty character, which will suffice even in the absence of an offensive weapon. This is where the threat is to injure a child, or indeed any other person than the **person** ultimately assaulted. Several years ago the North Shore was terrorized by a rapist with a *modus operandi* whereby he sought out advertisements in newspapers by mothers selling cradles or other nursery items. He would talk his way into the house and

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threaten to kill or injure the baby unless the mother consented to intercourse. This type of case is, unfortunately, not rare. The behaviour involved is disgusting and repellent. Even though no grievous or actual bodily harm is inflicted or threatened, and even though no gun, knife or other offensive weapon is involved, a parent is so vulnerable to threats against a child that this type of threat will automatically bring the case into the second category.

The fourth category of sexual assaults under the new system as set out in proposed section 61E will be the present provision against indecent assault contained in sections 76 and 76A of the Crimes Act, with the qualification that the wording will be altered to cover both males and females rather than simply females as at present. The maximum penalty under this provision will be four years, penal servitude, six years if the victim is under 16 years of age. These penalties will not alter. The procedure for the prosecution of sexual assault in the various new categories will not be any different in principle from the old procedure. Once committal proceedings are completed, the Crown will determine what count or counts to put in an indictment. If the evidence suggests severe violence accompanying sexual intercourse, then probably a category 1 charge will be laid. If the violence appears to amount to actual bodily harm but not grievous bodily harm, then probably the accused will be indicted for a category 2 offence.

If on a 61B charge the jury believes that the injury was actual rather than grievous, it may as an alternative bring in a conviction under 61C, or category 2. If in any case the prosecutor believes that there may have been intercourse without consent, and he is not sure whether the jury will accept that there was physical injury, he may charge a category 2 count and a category 3 count as well. Probably in something like one-half to two-thirds of all cases, the indictment will simply allege one count under 61D, that is category 3. This will require proof of sexual intercourse without consent, but without proof of physical injury. Just as is currently provided for the offence of rape, alternative verdicts of incest or unlawful carnal knowledge will be available on a category 3 charge if the jury so determines upon the appropriate facts.

As with the present offence of rape, the new category 3 offence will require it to be proved by the prosecution that the accused knew that the victim did not consent to sexual intercourse or was reckless as to whether or not the victim consented. As for category 3 the question of consent or non-consent to sexual intercourse will be necessarily in issue, the new law will provide some relevant clarification. Proposed section 61D gives various circumstances which will be deemed to amount to non-consent notably where the consent is obtained by threats or terror. This is a term well known to the courts, but the proposed section makes it clear, as it is clear in relation to the first two categories, that the offence will be complete where the threat is directed against a third person, as well as against the actual victim of the forced intercourse. This rule would apply, for example, where thugs waylay a couple and threaten to bash up the boyfriend unless the girl consents to intercourse.

Proposed section 61D also makes it clear that the victim of a sexual assault will not be deemed to have consented merely because no actual physical resistance was offered. Obviously, the law should not compel the victims of sexual assault to risk even further injury by fighting back physically against what may be overwhelming force. This might cause some attackers to go berserk. The question is not whether a victim of a sex attack fights back; it is whether he or she consents freely and voluntarily. As I said, proposed section 63 will abolish the common law offences of rape and attempted rape. Proposed section 64 will save the operation of the old law in respect to conduct prior to the commencement of the new law.

Sections 76 and 76A are omitted. Section 77 is amended so as to make it sex neutral and linguistically consistent. Proposed section 77A allows the exercise of a discretion by the court to have closed hearings in certain matters. This continues the present position. Section 78 is amended consequentially with other changes. Sections 379 and 380 are omitted from the Crimes Act by statute law revision.

Proposed section 405B is a novel provision designed to deal with the **difficult** problem of complaints in rape cases. For an understanding of this provision, it is necessary to mention the general rule of evidence that complaints about **behaviour** or events, other than such as one made virtually during the occurrence of an incident are **generally** not **admissible** as proof that something occurred. The reason for this is obvious. Any person who wanted to fabricate a claim against another could simply tell all his friends about the wicked thing that X had supposedly done to him. He **could** then call his friends to court as witnesses, and they could say, "Yes, the plaintiff told me on New Year's Day about what X did to him." Obviously such evidence is generally banned by the courts; its potential for perjury is manifest. But in the case of sexual offences there has long been a limited exception to **this** rule. Evidence is admissible that, within a short time or as soon as possible after the alleged incident, the victim complained of the matter to someone.

Great concern has been expressed over recent years that the recent complaint **rule** in sexual assault cases results in a wrong and artificial emphasis upon what the victim did as distinct from what the accused did. The Women's Advisory Council recommended that the recent complaint exception in sexual cases be simply abolished, **and** that correspondingly the complainant witness be **not** open to cross-examination about delayed complaint, or failure to complain. The Government has accepted the basic premise that the rules about recent complaint are unsatisfactory at the present time but it seeks in the proposed section 405A to achieve a solution to the problem by different means. First, it is accepted that persons who have been sexually assaulted **are common** prey to feelings of distress, humiliation and guilt which make it difficult for them instantly to decide whether to report a sexual assault. According to experienced persons, intense and completely unwarranted feelings of guilt are common among sexual assault victims. It is often difficult for a sexual assault victim to explain to police, or to a court, why **no** immediate complaint was made.

Second, the Government accepts that in the great majority of cases of sexual assault cases where no immediate complaint is made, the explanation lies in the traumatic effects of the assault, confusion about the best course of action, and the complex feelings of personal guilt and self-doubt which are stimulated. Third, however, the Government accepts that there is a small minority of cases where failure to complain really may indicate fabrication and false witness. To prohibit completely cross-examination as to late complaint or failure to complain could properly be said by critics as likely to lead to injustice in some few but finite number of cases. To avoid this possibility, cross-examination as to failure to complain must be allowed. Fourth, no benefit to sexual assault victims can flow merely from abolishing evidence of recent **complaint** without correspondingly limiting cross-examination about failure to complain.

Accordingly it has been decided to retain the recent complaint rule, but to require in proposed section 405B that where a witness is questioned as to the absence of **or** delay in complaint, the judge shall give a warning to the jury to the effect that absence of complaint or delay in complaining does not necessarily indicate that **the** allegation that the offence was committed is false; and, second, inform the jury that there may be good reasons why a victim of a sexual **assault** may hesitate in

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making, or may refrain from making, a complaint about the assault. It is felt that this formula will protect both the complainant witness and the accused. The prosecution may still give evidence of recent complaint, if one has been made. The accused may still cross-examine as to its delay or absence, but, in the latter case, the jury **will** be told clearly not to dismiss a prosecution automatically because of late complaint. In my view, that is a very fair result.

Proposed section 405c also produces a fair result. What will be subsection (2) provides:

On the trial of a person for a prescribed sexual offence, the judge is not required by any rule of law or practice to give, in relation to any offence **of which** the person is liable to be convicted on the charge for the prescribed sexual offence, a warning to the jury to the effect that it is unsafe to convict the person on the uncorroborated evidence of the person upon whom the offence is alleged to have been committed.

Judges have commonly warned juries against the dangers of conviction of rape on the uncorroborated evidence of a woman. That there might be a rule of law or practice to this effect is unacceptable. No doubt members of the police force would be justifiably upset if Parliament were to legislate a warning against the dangers of convicting on the uncorroborated evidence of a police officer.

Any other class of persons, such as Protestants, redheads or lawyers would be equally upset at a special practice of judges warning juries that members of **such-and-such** a group are inclined to be liars. The general practice in the criminal law is to leave it to the judge to make whatever comments he sees fit on the credibility of evidence, provided always that he tells the jury that it must make the final decision. Often a judge will say to a jury, "It is a matter for you to decide, but I found the evidence of X hard to believe"; or "I found the evidence of X very credible". If such a system is to continue, the **law** should not discriminate against sexual assault victims by **automatically** branding them as untrustworthy. Hence new section 405c, which I hope will gain general acceptance and endorsement from the House.

Proposed section 409A deals with a particular problem arising in sexual assault cases involving multiple offenders, where the offenders abscond and are apprehended separately, some time apart. In such cases the right of the accused in each case to a preliminary hearing before a magistrate will be retained, but limited. By new section 409A the prosecution may serve upon the accused a copy of the transcript of the evidence of the complainant given at any earlier committal hearing against any fellow alleged multiple assault offender. The accused may not then ask any question the same as, or substantially similar to, any question already asked of the complainant witness at an earlier hearing. This will reduce significantly the strain involved in such cases and avoid the tragedy that occurred in notorious cases such as the Old Bar Beach pack rape case.

So far as repetitive questioning generally is concerned, sections 57, 58 and 59 of the Evidence Act (1896) remain part of the law of this State. These provisions allow courts to stop offensive or excessively repetitive questioning, but in the past they have been insufficiently used. Given the enactment of the new legislation, it is hoped that judges and magistrates will be alerted afresh to the significance of these sections. A part of the education campaign to follow these bills will be a reminder to police prosecutors and Crown prosecutors of the existence and importance of the offensive questioning provisions. New sections 409B and 409C deal with prior sexual **history**, and I have already **dealt with** that subject. As I told the House **earlier**, the limitations to be imposed on evidence of prior sexual history are central to these reforms.

New section 442A provides that where a person is convicted of a category 1 or category 2 offence—sections 61B and 61C—and also of a category 3 offence—section 61D—the judge shall particularly take into account when passing sentence, whether both offences arose out of substantially the same set of circumstances. This is a fair and—one might say—elementary principle of sentencing. Finally, consequential amendments are made by the principal bill to section 476 and section 578 of the Crimes Act.

So far as the cognate bill is concerned, I have already explained that its effect will be to amend the Child Welfare Act so as to allow a person charged in the child welfare court with an indictable offence to have the option of trial by jury. This is to be given effect to in new subsections (2) and (2A) of section 86. So far as the specifically sexual offences are concerned, the cognate bill will provide that only a person under 18 charged with a category 1 offence—the most serious offence of sexual violence—must be charged in the Supreme Court before a jury. There is to be no option. But where a juvenile is charged with a category 2, 3 or 4 offence he will have the option. He may opt to be tried in the children's court, before a magistrate, but he may also opt for jury trial if he wishes it.

The new laws will not apply retrospectively, but on a date to be proclaimed. This is likely to be in about two or three months' time, after the Police Department has had an opportunity to put into effect a training programme to explain to police officers the way in which the new laws will operate. The old laws will apply to all relevant behaviour that occurs before the commencement date. The new laws will apply to all relevant behaviour that occurs after the commencement date. For example, if the commencement date is 1st June, 1981, a sexual assault committed on 2nd June will be governed by the new laws, but a sexual assault committed on the 31st May would be governed by the old laws.

This will mean that for about a year after the commencement date, there will be a double track of cases, some being dealt with under the old law, and some under the new. This will be somewhat inconvenient, but it is unavoidable. It would be unacceptable to attempt to impose liability under the new laws for behaviour committed prior to the introduction of the new laws. However, as there is generally no statute of limitations in criminal cases, it is possible that an offender may be arrested in 1982 for an offence committed in 1979 or 1980. In such a case the offender will be tried for rape under the old law. However, as time goes by, such cases will disappear. It can be expected that within about one year after the commencement date, the great majority of offences committed prior to the commencement date will have been completely disposed of in the courts.

In drafting this legislation New South Wales has had the advantage that during the past decade various other States have attempted reform of their sexual offences laws, and it has been possible to observe the results of those attempts. In particular, we have looked at the provisions of the South Australian legislation, which was a pioneering effort at radical reform; and at the provisions of the Victorian, Queensland and Western Australian statutes. We have tried to incorporate the best of all this legislation and avoid weaknesses. Even so, this is an area of law which is technically quite complex, as it involves significant restructuring of the laws of evidence.

The people involved in the actual drafting of the new laws—the Parliamentary Counsel, the criminal law review division, the women's co-ordination unit and the legal branch of the Premier's Department—have taken great pains to express in statutory language the intention and spirit of the reforms. However, in the nature of such complex lawmaking, it is conceivable that there may be technical weaknesses. For this reason I shall specifically ask the criminal law review division and the Bureau of Crime

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Statistics and Research to monitor the new laws for at least the first eighteen months of their operation, and identify any technical weaknesses that become evident. **If** problems become apparent at any stage such that the new laws are not giving proper **effect** to **the** intentions behind them, I shall propose appropriate amendments.

I want to make this point strongly because there may be some members of the public—and particularly the legal profession—who are generally in favour of ~~the~~ reforms but who have misgivings about one aspect or another. To these people I say: "Give the reforms a chance. Do not condemn them without a fair trial." My officers—as well as vigilant people in the civil liberties area and in the women's movement—will be keeping a close watch on the new laws to see that they operate effectively and fairly. These reforms represent a recognition of the need to balance the rights of the victims of crime with the rights of persons accused of crime. It is now widely recognized that the laws relating to rape have in the past operated oppressively against women, notably by virtue of the admissibility of evidence about prior sexual behaviour and by virtue of a legal licence to rape which the law has given to husbands.

I stress that the perception of the law's failure is not confined to radical feminists. Last year a survey conducted by the Australian Women's Weekly showed deep and widespread dissatisfaction with the rape laws. The readers of the Australian Women's Weekly are solidly mainstream, in Australian political terms. Bodies such as the Country Women's Association, the Catholic Women's League and the Young Women's Christian Association have expressed support for the proposed reforms. No doubt some people will say these laws are anti-male. But they are not; they are merely anti-criminal. To demonstrate that this is so, I shall cite some proposals for change of the laws which have been floated from time to time but are not incorporated in the bills.

First, the dock statement has not been abolished. The dock statement is an unsworn statement made by an accused person at his trial, and it is regarded by civil libertarians as an ancient and important right. This legislation will limit the right of an accused in a dock statement to engage in character assassination of the victim by imputing prior, irrelevant sexual misbehaviour, but otherwise the dock statement remains unfettered. Suggestions that it should be abolished have not been, and will not be, accepted.

Second, the right to trial by jury has been extended very significantly in cases where juveniles—those under 18 years of age—are charged with indictable offences, including sexual assaults. I regard this as an historic advance. Trial by jury is, for most categories of serious criminal cases, the appropriate mode of adjudication. For many years now the option of jury trial for juveniles has been unduly limited, and that deficiency will now be made good. Third, the right of an accused person to be afforded a proper preliminary hearing has been retained, so that he may test the strength of the prosecution case against him. The suggestion that the right of the accused to cross-examine the victim at the committal proceeding should be done away with, has been rejected. There are two limitations, however, upon the committal proceeding: the accused may not cross-examine as to prior sexual history, except in a limited number of circumstances; and in pack rape prosecutions, there is a limitation on the asking of repetitive questions.

These comments should serve to demonstrate that the proposed changes of **the** law should not—must not—be interpreted as anti-male, or as allowing the possibility that innocent persons will be committed. Any such interpretation would be wrong.

Great care has been taken to ensure the proper protection of the rights of accused persons. I regard the reforms embodied in these measures as one of this **Government's** most significant law reforms. I table explanatory material relating to these measures and commend the bills to the House.

Crimes (Sexual Offences) Amendment Bill

The introduction of this bill into Parliament is the final step in a long and involved process of deliberation and consultation to which many individuals have contributed greatly. As such, it is appropriate and fitting that such persons be recognized for the substantial contribution they have made to the process of law reform in New South Wales.

The part played by the Women's Movement, especially the members of the Rape Crisis Collective and the Women's Electoral Lobby, in raising the consciousness of the need for rape law reform is acknowledged.

Dr Jocelyne Scutt and Ms Di Graham of W.E.L. played a major role in the W.E.L. campaign and deserve special mention as does the former Director of the Women's Co-ordination Unit, Ms Carmel **Niland**, Counsellor for Equal Opportunity. Some former members of the Women's Advisory Counsel should be mentioned: Ms **Franca** Arena, Ms Dorothy Isaksen, Ms Pat Bernard, Ms Joyce Clague, Ms Anne **Conlon**, Ms Joy Cummings, Ms Maureen Giddings, Ms Audrey McDonald, Ms Jeannette McHugh, Ms Marie Maunder, Dr Joan Redshaw, Julie Richter, Mary **Rossi**, Betty Spears, Dr Clare Cunningham and Marlene Mathews.

In September of 1976 Mr Roger Court, Q.C., Crown Advocate, then Director of Criminal Law Review Division of the Department of the Attorney-General and of Justice, presented to me proposals to amend the law of rape and other sexual offences. Mr Court convened a special Consultative Committee to assist him in the preparation of his Report.

The following persons were members of that Committee: Mr **Kerry** Bryan, representing the Law Society of New South Wales; Mr Terry **Buddin**, University of New South Wales Law School; Miss Jane Chart, Department of the Attorney-General and of Justice; Mrs Helen Coonan, solicitor; Mr Justice Cripps, then Mr J. S. Cripps, Q.C., representing the New South Wales Bar Association; Mrs Judy Dean, solicitor, representing the Women Lawyers Association of New South Wales; Her Honour Judge Mathews, then Ms Jane Mathews, barrister; Ms Deidre O'Connor, Macquarie University Law School; Mr Howard Purnell, Q.C., Senior Public Defender; Inspector Robert Redhead, representing the New South Wales Police Department; Dr Joan Redshaw, representing the N.S.W. Women's Advisory Council; Mr Justice **Roden**, then Mr Adrian **Roden**, Q.C., representing the Criminal Law Committee of the Sydney University Law Graduates Association; Miss Carolyn **Simpson**, representing the New South Wales Council for Civil Liberties; Dr Jeff Sutton, Director of the New South Wales Bureau of Crime Statistics and Research; Mr Vin Wallace, Q.C., then Senior Crown Prosecutor; and Dr Greg Woods, Director Criminal Law Review Division, then senior lecturer, University of Sydney Law School.

After that Report of the Criminal Law Review Division was tabled in November, 1977, further consultation and comment ensued. In May, 1978, the Women's Advisory Council sponsored a seminar on changes to **sexual** offences legislation, which was attended by over 200 people, including Mr *Walker*]

representatives from **the** major women's organizations. The panel for that **seminar** was comprised of the following: Mary Gaudron, Chairperson, Howard **Purnell**, Roger Court, Julie **Daihltz**, Belinda Powell, **Jocelynn** Scutt and Jane **Mathews**.

The following were the New South Wales participants of the National Conference held in Hobart in May of last year: Ms Kay Loder, Ms Priscilla Fleming, Ms Pat **O'Shane**, Mrs Betty Combe, Mrs Lesley **O'Brien**, Mrs R. W. Lasitbrook, Ms Janet Mundie, Ms Margaret Duckett, Ms Athena Touriki, Ms Lorna **Bartlet**, Ms Di Graham, Ms Kerry Heubel, Mr John Avery, Mr Robert Redhead, Mr Terry **Buddin**, Mr Roger Court, Ms Jeannette **McHugh**, Ms Lesley **Garton**, Dr Greg Woods, Ms Bronwyn Myers, Ms Pam Rutledge, Ms Joan Heagney, Ms Dorothy Isaksen, Ms Anna Katzmann, Ms Eva **Klimkiewicz**, Mrs Ros Leahy, Mr Daryl Lightfoot, Mr Laurie **Patton**, Mr Stan Ross, Prof R. P. Roulston, Mr T. H. Smith, Mr A. J. Watt, Ms Helen **L'Orange** and Ms Barbara Wertheim.

The Women's Electoral Lobby Sexual Offences Law Reform Action Group played a major role. The individuals concerned were: Ms Di Graham, **Ms Kerry** Neubel, Dr Jocelyne Scutt, **Ms Julie** Aitkinson, Ms Lyn **McKenzie**, Ms Grace **Bendall**, Ms Cecilia Dobinson, Ms **Carmel** Rose, Ms Lesley Morris and Ms Judy Malcolm.

Following the National Conference in Hobart a large number of individuals have worked consistently to transform the general principles decided upon at that Conference into a workable system of sexual assault law applicable to New South Wales. The chairperson of the Women's Advisory Council, Ms Kaye Loder, Dr Greg Woods, Director of the Criminal Law Review Division and **Dr** Scutt sat at a public hearing on the proposals formulated by the New South Wales Women's Advisory Council.

The following groups and individuals made submissions, or endorsements, to the Women's Advisory Council:

Women's Groups: A.L.P. Women's Committee; Liberal Party Women's Group; National Council of Women; Union of Australia Women; Australian Federation of Business and Professional Women's Association; Country Women's Association; United Associations of Women; New South Wales Transsexual Association; Far South Coast Proposed Women's **Co-operative**; Women for the Family—Festival of Light, Ethnic Communities Council Women's Affairs Committee; Tenterfield Evening Branch, Country Women's Association; Albury—Wodonga Women's Collective and volunteers from local sexual assault counselling service; Filef Women's Group; Women's Electoral Lobby, University of New South Wales Branch; Women's Electoral Lobby and the Jenny's Place Committee.

Religious Groups: Sir Marcus Loane, Anglican Archbishop of Sydney, Centacare, Catholic Family Welfare, Newcastle Diocesan Mothers' Union, Diocese of Sydney Mothers' Union, Young Women's League, New South Wales, Anglican Social Issues Committee, Church of England, and the Young Women's Christian Association.

Health Organizations: HELP Centre Workers in Sydney Metropolitan Area; Medical Women's Society; Social Work Department, Royal Prince Alfred Hospital; Australian Medical Association, New South Wales Branch; N.S.W. College of Nursing; Family Violence Sub-committee, New South Wales Humanist Society; and the Doctors' Reform Society.

Legal Profession: John Mackinolty, Dean, Faculty of Law, University of Sydney; Women's Project Group, **Macquarie Legal Centre**; **Garth Symonds**, Lawyer, Sydney; New South Wales Bar Association; Justice P. Nygh, **Family Court**; Justice Fogarty, Family Court; Justice E. Evatt, Family Court; Janet **Coombs**, Lawyer, Sydney; Justice D. Tonge, Family Court; Women Lawyers' Association of New South Wales; Marrickville Legal Centre; Judge K. Gee, District Court; Pat O'Shane, Select Committee of the Legislative Assembly for Aborigines; and Athena Touriki, Lawyer, Sydney.

Individuals: Janet Mundie, Warners Bay; Roselynn Dobrom, Sydney; S. Elliott, Sydney; Gordon Walker, Dolans Bay; Betty Moore, **Inverell**; Jeanne Woolacott, Sydney; G. Jones, Sydney; A. Bunner, Baradine; Margaret Thompson, Sydney; Margaret Power, **Albury**; Sherrie Escobar, Wollongong; C. McOrne, Wollongong; L. Robinson, Wollongong; Christine **Meza-Britez**, Sydney; and D. H. Lightfoot, Sydney.

The following were members of that Council during this important time of **community** consultation: Kaye Loder, Chairperson; Moira Brophy, Deputy Chairperson; Elsa Atkin; Lorna Bartlett; Kate Butler; Betty Crofts; Margaret Doyle; Lee Gorman; Faye Lopo; Marlene Mathews; Jocelynn Scutt; Phillipa Smith; and Olga Yeike.

Bureau of Crime Statistics and Research

Rape and Attempted Rape Sentences 1972-79

In this 8 year period there have been no life sentences. The maximum sentence for each year was as follows:

Rape	
1979	15 years
1978	16 years
1977	16 years
1976	20 years
1975	16 years
1974	14 years
1973	12 years
1972	14 years

Attempted Rape

1979	9 years
1978	13 years
1977	12 years
1976	11 years
1975	7 years
1974	12 years
1973	12 years
1972	12 years

The mean custodial sentence for rape varied between years as follows:

Year	Mean	No.
1979	8.36	45
1978	8.60	62
1977	8.07	43
1976	8.34	70

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Year	Mean	No.
1975	6.67	52
1974	7.19	59
1973	5.66	41
1972	6.71	49

Overall mean for the period = **7.53**

Attempted Rape

1979	4.63	8
1978	6.00	10
1977	5.38	16
1976	4.65	20
1975	4.92	13
1974	5.50	10
1973	5.14	7
1972	4.42	12

Overall mean for period = **5.04.**

Debate adjourned on motion by Mr Dowd

NATIONAL COMPANIES AND SECURITIES COMMISSION
(STATE PROVISIONS) BILL

SECURITIES INDUSTRY (APPLICATION OF LAWS) BILL

COMPANIES (ACQUISITION OF SHARES) (APPLICATION OF LAWS) BILL

COMPANIES AND SECURITIES (INTERPRETATION AND MISCELLANEOUS
PROVISIONS) (APPLICATION OF LAWS) BILL

CORPORATE AFFAIRS COMMISSION BILL

CRIMES (SECURITIES INDUSTRY) AMENDMENT BILL

Introduction

Motion (by Mr Walker) agreed to:

That leave be given to bring in the following cognate bills:

- (i) A bill for an Act to make provision for the operation of the National Companies and Securities Commission in the State.
- (ii) A bill for an Act relating to the securities industry in New South Wales.
- (iii) A bill for an Act relating to the application of laws to regulate the acquisition of shares in companies incorporated in New South Wales and matters connected therewith, to amend the Companies Act, **1961**, and for other purposes.
- (iv) A bill for an Act relating to the interpretation of certain provisions relating to corporations and the securities industry, and for certain other matters.
- (v) A bill for an Act to reconstitute the Corporate Affairs Commission and, in connection therewith, to repeal Part **XII** of the Securities Industry Act, **1975**, and certain other enactments; and for related matters.

- (vi) A bill for an Act to amend the Crimes Act, 1900, consequent upon the enactment of the Securities Industry (Application of Laws) Act, 1981, and certain other Acts.

Bills presented and read a first time.

Second Reading

Mr WALKER (Georges River), Attorney-General and Minister of Justice [8.41]: I move:

That these bills be now read a second time.

The bills before the House represent the first stage of the legislation necessary to bring into effect the co-operative scheme for the regulation of companies and securities which has as its principal object the creation of a uniform system of companies and securities regulation throughout Australia. Although not as far reaching as this Government would have liked, the proposed national scheme is a significant step forward in the administration of laws involving companies and securities in this country. The scheme represents also a land mark in Commonwealth-State relations and would not have come into being without the spirit, or co-operation and dedication which has been displayed by my colleagues in the other States and the Commonwealth. The scheme evolved in a spirit of compromise, and substantially achieves the long-sought aim of a national body administering one set of laws throughout Australia. This has been achieved without the States being required to refer any powers to the Commonwealth.

The national administering body will be the National Companies and Securities Commission, which has already been in operation for more than a year. The national commission will be responsible for the entire area of law and administration concerning companies and securities. It will, however, delegate a large proportion of its functions to the existing State administrations. Overseeing the scheme will be the Ministerial Council for Companies and Securities, which consists of the Ministers of the Commonwealth and the States responsible for the law in this area. Before dealing in more detail with the scheme, I wish to say a few words concerning its development.

Since its election in 1976 this Government has sought the promotion of effective and speedy law reform in a number of areas. One of the principal areas which the Government identified as being in need of reform was that concerned with the regulation of companies and securities. When this Government came to power it was faced with a most unsatisfactory situation. The reform of the law in relation to companies and securities had come to a virtual standstill as a result of the unwillingness of the previous Government of this State and of governments of the same persuasion in certain other States in Australia to come to grips with the necessity to provide for the enactment and administration of company and securities law on a national basis.

The existing laws could not effectively deal with the prevention of corporate crime. Moreover, the Corporate Affairs Commission in New South Wales was incapable of effectively administering the existing laws as a result of lack of sufficient staff and other resources. The administering authorities in other States had similar problems. Further, the previous Government of this State adopted a half-hearted approach to the administration of the law and created a climate where corporate criminals were able to ignore the law practically at will. The creation of the Interstate Corporate Affairs Commission in 1974-75 by agreements with the governments in Victoria, Queensland and Western Australia was founded more in a mood of obstruction of federal Labor Government initiatives than any genuine desire to act effectively in this area.

Though the Interstate Corporate Affairs Commission did **serve** to cut **down** partly some of the duplication of registration requirements for companies **carrying** on business in more than one of the States which were parties to the agreement, it did little towards making the reforms necessary if the law were to be effective in the regulation of corporate crime and of the market place. When this Government came to power it acted swiftly. It greatly expanded the investigation and legal staff of the Corporate Affairs Commission to allow for more effective investigation and to ensure that any subsequent proceedings were more expeditiously conducted. This infusion of resources resulted in a substantial increase in the number of major investigations and prosecutions, with the result that corporate criminals discovered that corporate crime could no longer be conducted with impunity in New South Wales. At the same time as directing increased resources to the administration of companies and securities **law**, the Government has been active in promoting law reform in this area. The Government has always believed that the Commonwealth should legislate in this area using its powers so as to create a national system for the regulation of companies and securities.

The Government has repeatedly said that it was willing to refer any necessary powers to the Commonwealth to achieve this end. Honourable members will be aware of the attempt to proceed in this way by the Whitlam Labor Government when it introduced the Corporations and Securities Industry Bill in 1974. Unfortunately, that **attempt** foundered in the Senate, and ultimately lapsed after the disgraceful events of November 1975. Though this Government strongly advocated that the Commonwealth continue with this approach after the new federal Government came to power, *it* reluctantly agreed to the co-operative scheme that was devised. In doing so the Government recognized that though the proposed scheme was by no means ideal, it did represent a significant step towards the effective and efficient administration of companies and securities law. It was therefore in a spirit of co-operation that the State embarked on the co-operative project.

In May 1978, the Ministers responsible for companies and securities matters in the Commonwealth and the States met at **Maroochydore** to settle the details of the proposed scheme. New South Wales put forward a substantial number of proposals for reform. A number of those proposals were accepted by Ministers and have been incorporated in either this legislation before the House or the proposed companies code.

The reforms proposed by New South Wales that were accepted for incorporation in the co-operative legislation included recommendations that: the national commission have a wide general power of investigation so that it might more effectively investigate corporate crime; the securities industry legislation contain provisions giving the Supreme Court power to prevent persons subject to investigation removing property from the jurisdiction; the Supreme Court should have the power to grant injunctions to restrain breaches of the legislation upon application by the national commission; the notes of examination in an investigation under the Securities Industry Act should be admissible in evidence in criminal and civil proceedings; the national **commission** have the power to prohibit trading in securities; the national commission have the power to hold hearings for the purposes of the legislation; the matters to be contained in a **prospectus** should be set out in the regulations so as to allow greater flexibility; and provisions should be inserted in the securities industry code relating to clients depositing money with dealers.

Unfortunately, a number of the proposals put forward by New South Wales were not accepted by a majority of Ministers either because they saw some fundamental objection to them **as** a matter of principle or, more usually, because Ministers felt that their inclusion would unduly delay the introduction of the national scheme.

Subsequent experience and strident public criticism from interested groups of the provisions of the proposed companies code has perhaps justified the wisdom of that approach.

Of the matters deferred by Ministers, the more significant were that: stock exchanges be required to submit monthly reports to the national commission setting out complaints received by them and action taken; the national commission should have power to require changes in the constituent documents of a stock exchange; dealers who are members of a stock exchange should be prohibited from being directors of public companies; dealers who are members of a stock exchange should be able to underwrite a public issue only with the consent of the national commission; the provisions dealing with fund raising should be completely revised; secretaries of public companies should have formal qualifications; public companies should be required to lodge quarterly reports on profit and loss and turnover; an accounting standards review board be established; and a new statutory remedy be created for shareholders in the nature of a companies board of inquiry, perhaps constituted by the national commission.

All the matters I have mentioned will in due course be considered by the national commission now that it has been established. In particular, discussions are continuing about the possible creation of an accounting standards review board and the ministerial council for companies and securities has recently referred the question of an alternative remedy for shareholders to the national commission for consideration and report. In addition to the specific proposals made at Maroochydore, New South Wales was instrumental in the preparation of the new takeover code, which is designed to regulate more effectively the acquisition of shares both on and off the markets established by the stock exchanges. I will have more to say about that new code later.

At the Maroochydore meeting of the ministerial council in 1978 the Commonwealth and the six States agreed to establish the National Companies and Securities Commission to administer a uniform system of laws relating to the regulation of companies and the securities industry. As I said earlier, the **commission** has now been established and its members were appointed on **11th** March, 1980. The three main areas of substantive law to be administered by the **commission** will be contained in the Companies (Acquisition of Shares) Code, more commonly known as the takeover code, the securities industry code and the companies code. The (Commonwealth) Companies Bill was initially exposed for public discussion from April to July 1980 and attracted considerable comment. As a result, the bill was substantially redrafted, and further public comment was sought following introduction of a **bill** into the Commonwealth Parliament in August, 1980. This has necessarily delayed introduction of the companies legislation, and I expect to have the relevant bills before this House **during** the spring session. The Companies (Acquisition of Shares) Bill and Securities Industry Bill have also been subject to lengthy public exposure. A number of submissions were received on these two bills from interested groups and individuals and as a result the legislation was substantially altered.

There is considerable demand in the community for the introduction of a new takeover code as soon as possible so as to combat the many abuses that have occurred and are occurring in that area. For this reason, the ministerial council decided that notwithstanding the unavoidable delays that had occurred in introducing the new companies code the new Companies (Acquisition of Shares) Code **should** be in force as soon as possible and in advance of the companies code. To do this it was necessary also for the new securities industry code to be in force, as the national **commission** in regulating takeovers would require the investigation powers provided for by that code.

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The Commonwealth Parliament has already passed the substantive laws, which will operate in the Australian Capital Territory, and the bills before the House will enable the operation of the various codes in this State. Before speaking on each of the bills I shall state briefly how the national scheme will operate. The basis for the national companies and securities scheme is provided for in the formal agreement on companies and securities, which was entered into by the Commonwealth and each of the States on 22nd December, 1978. The agreement provides for first, a ministerial council consisting of the Ministers of the Commonwealth and the States responsible for the administration of laws concerning companies and securities; second, a national companies and securities commission, which will be responsible to the ministerial council for the administration of the scheme legislation.

In accordance with the agreement, the national commission will delegate the greater proportion of its powers and functions, and in particular day-to-day functions, to the existing State administrations. The relevant State administration in this State is the Corporate Affairs Commission and that commission will continue to exercise much the same functions as it does at present. Third, there will be a uniform system of laws relating to companies and the regulation of the securities industry. This uniformity will be achieved without any referral of powers by the States to the Commonwealth.

The legislative device used to achieve this result involves: first, the passing of the substantive laws by the Commonwealth for the purpose of their application to the Australian Capital Territory; second, the adoption of these laws in each State by means of Acts called Application of Laws Acts. These State Acts will provide that the Commonwealth Acts apply in New South Wales with certain minor amendments that are necessary in order to translate the Commonwealth provisions for the purpose of their application to New South Wales. For example, a reference to the Australian federal police will be deleted and a reference to the police force of New South Wales inserted; third, future amendments to the Commonwealth Acts will apply automatically in New South Wales subject to any minor translation amendments that need to be effected by regulation.

The Commonwealth Acts as applied in New South Wales with the necessary translation amendments will be known as codes and the Minister responsible for the administration of companies and securities laws in the State will be authorized to authenticate and have printed the codes in respect of the substantive areas of legislation. At the conclusion of my remarks I shall be tabling for the assistance of members a comprehensive document containing a detailed explanation of the legislation.

I shall now deal with each of the bills in turn. First, the National Companies and Securities Commission (State Provisions) Bill, 1981. The (Commonwealth) National Companies and Securities Commission Act, 1979 established the National Companies and Securities Commission. This bill will enable the national commission to operate in New South Wales. The national commission will be a pivotal force in the scheme. It is intended that the commission will be a relatively small but efficient body with a small staff. The three full-time and two part-time members of the commission took office on 11th March, 1980. The commission will be responsible for the entire area of law and administration affecting companies and securities. It will be responsible for the effective administration of the legislation and the consideration of proposals for law reform. It is intended that the commission will take an active role in these matters in consultation with members of the community.

The national commission will take a particular interest in the regulation of take-overs where it will be vested with important discretions. It is intended that the commission will be able to deal effectively with the abuses that have occurred in this area in

recent years. Though the national commission will be vested with responsibility for the entire area of law and administration of companies and the securities industry, as I have already said it will delegate a large proportion of its functions to the State corporate affairs administrations, which, in this State, will be the Corporate Affairs Commission. This is in conformity with the formal agreement, which provides that there should be a maximum use of the decentralized resources and personnel in the States. In practice, this will mean that the national commission, while reserving to itself some of the more important discretions, will leave the bulk of the day-to-day running to the State administrations. Members will recall that, rather than risk endangering the whole scheme I agreed, however reluctantly, to the national **commission** being located in Melbourne. In conceding this point, however, I secured the agreement of the other Ministers to a ministerial council secretariat being situated in Sydney. In addition, the accounting standards review board, when established, **will** be based also in Sydney as will a proposed companies and securities law review committee. The accounting standards review board was proposed by New South Wales and when established, will have a significant role to play in the setting of accounting standards, a matter which goes to the heart of company regulation.

The bill effectively mirrors the substantive provisions of the Commonwealth Act, and contains also provisions designed to facilitate the commission's operations in this State. Of the provisions of the bill, the following are worthy of special mention. Clause 4 of the bill will provide that where the national commission is acting under a State Act it represents the Crown in right of the State of New South Wales. Similarly, in each of the other States the commission will represent the Crown in right of the particular State and when acting under Commonwealth law it will represent the Crown in right of the Commonwealth. Clause 4 will provide also that the commission, in performing its functions, must comply with the formal agreement.

Clauses 7-10 will enable the commission to hold hearings for the purpose of the performance of its functions and these may be held in public or in private. The commission will have power to summon witnesses and hear evidence. Provision is made for persons summoned before the commission to be represented and for the payment of expenses to witnesses. Provisions dealing with the constitution, meeting and functions of the national commission are to be found in the Commonwealth National Companies and Securities Commission Act, which I will be tabling with explanatory notes. It will be available to any honourable member who desires to read its provisions. It is intended that the hearings power will enable the national commission or the State commission under delegation to hold hearings in relation to matters of public interest, with a view to determining as expeditiously as possible whether some action is required by the commission. As I mentioned earlier, the national commission will delegate a large proportion of its functions to the State administrations and the commission's power of delegation is found in clause 12.

The final matters that I wish to mention in relation to this bill are the provisions relating to secrecy, dealings in securities and the notification of interests by members and officers of the commission. These provisions are similar to the provisions of the present Securities Industry Act, 1975, which relate to members and officers of the New South Wales commission. They are designed to ensure that public confidence in the integrity of the commission and its officers is maintained.

I shall deal now with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill. The (Commonwealth) Companies and Securities (Interpretation and Miscellaneous Provisions) **Act** 1980 received the **Royal** assent on 28th May, 1980. Amendments to the Act are contained in the
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(Commonwealth) Companies and Securities (Interpretation and Miscellaneous Provisions) Amendment Act 1981. That Act received the Royal assent on 5th March, 1981. The Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill, 1980 applies the provisions of the Commonwealth Act (as amended) in New South Wales with certain minor amendments which **are** necessary to translate the provisions for the purpose of their application to New South Wales. The Commonwealth Act as applied in New South Wales by this bill will be known as the Companies and Securities (Interpretation and Miscellaneous Provisions) (New South Wales) Code. The purpose of the code is to ensure the uniform interpretation of all the legislation under the national scheme. The code will provide for general interpretation provisions similar to those at present contained in the Interpretation Act, for a number of special interpretation provisions which are applicable to the operation of the scheme and, in addition, will contain a number of miscellaneous provisions concerning the bringing of proceedings under the scheme legislation.

I shall deal now with the Securities Industry (Application of Laws) Bill. This bill provides for the application in New South Wales of the (Commonwealth) Securities Industry Act 1980 which received the Royal assent on 28th May, 1980. Further amendments were made to the principal Act by the (Commonwealth) Securities Industry (Amendment) Act 1981 which received the Royal assent on 5th March, 1981. The bill provides also for the application of these amendments to New South Wales. The Commonwealth Act as applied in New South Wales by this bill will be known as the Securities Industry (New South Wales) Code. The code **will** provide for the regulation of the securities industry. Among other things, it will provide for **the** licensing and supervision of stockbrokers and other dealers in securities and the prohibition of various undesirable practices with respect to dealings in securities. It is designed to ensure the protection of investors in securities and the fair and efficient operation of the market.

The code is based on the present State Securities Industry Acts, but nevertheless differs from those Acts in a **number** of significant respects. The more significant changes introduced by the code are, first, the code will provide for greatly expanded powers of investigation by the commission. The Securities Industry Act, 1975, contained only limited powers of inspection which inhibited the commission in relation to the investigation of suspected offences. The powers in the code will give the national **commission** a wide general power to obtain access to **books** and records and enable the national commission to obtain explanations in respect of those books. **Should** these powers prove inadequate, the national commission will have power to approach a magistrate who may issue a search warrant. It is hoped that these expanded powers **will** enable the national commission and, through it, the State commissions to carry out **their** market **surveillance** functions more effectively. Second, the special investigation **provisions will be revamped so** that, in accordance with the formal agreement, they **will** provide for the appointment of inspectors by the national **commission** upon the direction of the ministerial council or **a** member of the ministerial council. **This will mean that I, together with** the responsible ministers in the other States **and the Commonwealth, will** personally retain the power to order a special investigation in addition to the power of the ministerial council to do so.

In other respects, the provisions will be substantially the same as those **contained** in the present **Act**. An important change which **will** be made, however, is that where an inspector cannot ascertain facts relevant to an investigation because of failure of a person to comply with the requirement of an inspector, the national commission **will** be able to make orders restraining certain dealings in securities. In addition, detailed provisions will be inserted dealing with the admissibility in civil and criminal proceedings of material obtained in an investigation. Where the **national**

commission is of the opinion that it is necessary to protect persons buying or selling securities or to protect the public, it will be able to prohibit trading on the stock market in particular securities of, or made available by, a corporation. The prohibition may be for no more than twenty-one days and will be able to be given only after the stock exchange has been informed of the national commission's opinion and has had an opportunity of itself taking action. The corporation affected may ask that the matter be referred to the ministerial council which may direct the national commission to revoke the notice of prohibition. It is envisaged that this power will enable the commission to act quickly if necessary when it becomes aware of stock market malpractices.

Clause 67 of the code contains new provisions which will regulate the manner in which moneys deposited by a client with a dealer may be dealt with. Clause 123 of the code will contain a new provision designed to reinforce the provisions dealing with stock market manipulation. The new provision will prohibit persons entering into transactions which have or are likely to have the effect of raising, lowering or maintaining the prices of securities on a stock market within the State with the intent to induce other persons to purchase or sell securities.

In addition, a new provision will be added in clause 127 which will prohibit the dissemination by a person of information that, because of a breach of one of the market manipulation provisions, the price of any securities are likely to rise, fall or be maintained, if the person or a person associated with him has been a party to the breach or has received or expects to receive any consideration or benefit in relation to the dissemination of the information.

The Supreme Court will have power to ensure that when a person is subjected to investigation or legal proceedings, he does not transfer all his property outside of the jurisdiction so that creditors and investors are left without recompense. The commission will be given a wide power to intervene in proceedings under the code and the commission and other affected persons will be given the right to apply to the court for an injunction restraining persons acting in breach of the Act. This is designed to remove the existing uncertainty about whether the Corporate Affairs Commission has a right to be heard in proceedings under the Act and to obtain injunctions in appropriate circumstances to restrain breaches of the Act.

I turn next to the Companies (Acquisition of Shares) (Application of Laws) Bill. This bill provides for the application in New South Wales of the (Commonwealth) Companies (Acquisition of Shares) Act 1980 which received the Royal assent on 28th May, 1980. Certain amendments were made to the principal Act by the Companies (Acquisition of Shares) Amendment Act 1981 and that Act received the Royal assent on 5th March, 1981. The Commonwealth Act, as amended, as applied in New South Wales by this bill will be known as the Companies (Acquisition of Shares) (New South Wales) Code. The proposed Acquisition of Shares Code differs substantially in both policy and detail from the existing provisions regulating takeovers contained in part VI of the Companies Act, 1961.

The fundamental basis of both the existing and the proposed provisions is the protection of investors in companies and ensuring that they are in a position to make an informed decision in a takeover situation. However, the proposed provisions are wider in scope and more comprehensively ensure that this fundamental policy is carried into effect. The present provisions are concerned principally with the situation where an offer is made which would, if accepted, entitle an offeror to exercise more than 15 per cent of the voting power of a company. The provisions are not concerned with on-market transactions, purchases pursuant to unsolicited offers or where only four

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offers are despatched in any period of four months. The provisions therefore are primarily directed at general offers to shareholders. They will ensure that where there is such an offer, shareholders are provided with all relevant information and are given the opportunity to make an informed and considered judgment. Thus the provisions require a prospective offeror to lodge and give to the offeree company a part A statement at least fourteen days prior to the despatch of the offer. The part A statement must contain detailed information relevant to the offer.

The offeree company, on the other hand, is required to prepare a part B statement for despatch to shareholders. The statement must contain certain information relevant to the offer—for example, interests held by directors of the target company—and contains the directors' recommendations, if any, as to whether the offer should be accepted. The provisions of the code, while retaining as their principal object the protection of shareholders, have a different emphasis. They recognize that the protection of shareholders should not be restricted to general offers to shareholders and that the acquisition of shares resulting in a change of control of a substantial proportion of a company's capital, however occurring, should be regulated. Thus private offers and on-market transactions will not be excluded from the provisions merely because they are private or have taken place on the stock market.

The essential test is now whether the change of control is such that the investments of all shareholders will be affected and, therefore, they should be given an opportunity to participate on a fair and informed basis. The four principles underlying the detailed provisions regulating situations where such control is being acquired may be stated as follows: first, the shareholders and directors of a company should know the identity of any person who proposes to acquire a substantial interest in the company. Second, the shareholders and directors of a company should have a reasonable time in which to consider any proposal under which a person would acquire a substantial interest in the company. Third, the shareholders and directors of a company should be supplied with sufficient information to enable them to assess the merits of any proposal under which a person would acquire a substantial interest in the company. Fourth, as far as practicable, all shareholders of the company have equal opportunities to participate in any benefits accruing to shareholders under any proposal by which a person would acquire a substantial interest in the company. In essence, the code will prohibit the acquisition of more than 20 per cent of the shares in a company except in certain defined circumstances. This general prohibition is contained in clause 11 of the code.

The following are the three main exceptions to this general prohibition. First, the provisions relating to takeover offers are similar to the present takeover provisions and involve the giving of a part A statement by the offeror to the offeree company, the preparation of a part B statement by the offeree company and the despatch of formal takeover offers to shareholders who are also provided with a copy of the part A and part B statements. This procedure may be followed where the offeror wishes to acquire his shares outside the stock exchange or where he wishes to offer a non-cash consideration. If, in the course of a takeover offer, the offeror acquires shares at a higher price than under that offer he must pay that price in respect of all subsequent purchases resulting from the offer. The second major means by which more than 20 per cent of the shares in a company may be acquired is by way of takeover announcement. This method involves the offeror's broker standing in the market and undertaking to acquire the shares at a specified price for a specified period.

This procedure is new and reflects the code's concern with all changes in control whether or not occurring outside the stock exchange. The procedure can only be used where the offeror wishes to acquire 100 per cent of the shares or of a class of shares in a company and in general will only be available where, at the time of

the announcement, the **offeror** held less than **30** per cent in the target company. **The** price at which a bidder may make an offer must be no less than the highest **price paid** for acquisitions by him or his associates in the **preceding** four months. Such a **price** is deemed to include a price which may be paid by virtue of an **escalation** clause. If he increases his price during the period of the announcement, he must pay no **less** than that price in respect of **all** subsequent sales.

In general terms, a takeover bid conducted under this provision would take the following form: **first**, the offeror's broker will make an announcement on the floor of the home stock exchange of the target company to the effect that for a specified period he will be prepared to acquire any shares in the target company or in the target class of shares for a specified cash price. Second, acquisitions pursuant to the takeover announcement may only be effected at official meetings of a stock exchange and must be carried out through a stockbroker who is a member of that stock exchange. Third, the **offeror** must prepare a part **C** statement providing detailed information concerning the terms of the offer and the **offeror**. The **offeror** must **send** that statement to **all** shareholders in the target company or the target class. Fourth, after the part **C** statement has been despatched, the target company must prepare a part **D** statement which will contain information about the target company and the directors' recommendations, if any. Fifth, the offer made on the floor of the stock exchange may only be withdrawn in certain circumstances or with the approval of the commission. This procedure can only be used where the consideration is wholly in cash.

I wish now to deal with the subject of creeping takeovers. The third main **exception** to the prohibition is where no more than **30** per cent of the voting shares in a company are acquired in any period of six months. Thus, an **offeror** may, by means of a creeping takeover, acquire more than the prescribed percentage of shares without breaching the code. In addition to these three principal exceptions to the general prohibition on acquisitions, there are a number of specific exceptions. These include, first, subject to certain conditions, acquisition of shares in a company that **does** not have more than fifteen members or in a proprietary company where **all** the members have consented in writing to the code not applying to the acquisition; second, on-market transactions within twenty-eight days of the dispatch of a part **A** statement or, if takeover offers are despatched in that period, on-market transactions made before the expiration of the period during which those offers remain open; and third, certain *pari passu* allotments. In addition to these detailed provisions, certain safeguards have been incorporated into the code which apply to both on-market and **formal** takeover bids. These safeguards are designed as a deterrent to the types of abuses which have become apparent in recent years.

The more significant powers in this category are, first, under clause **37** of the **code** a person associated with the **offeror** or target company may not issue certain profit forecasts unless the consent of the national commission has been **obtained** and any conditions imposed by the commission have been complied with. This **provision** is designed to prevent the making of misleading profit forecasts by persons **associated with** the takeover bid to the detriment of the shareholders. Under clause **38** of the **code** persons associated **with** the target company **will** be prevented from **issuing asset** valuations **without** the consent of the national commission. This provision is **directed** at the situation where directors of a target company give optimistic but unfounded estimates of the asset values of the target company by way of defence to a takeover bid. Under clause **39** of the code the bidder or other person holding more **than** **5** per cent of the shares in the **target** company will be required to advise the home stock exchange of the target company daily of details of any dealings by him **in** the shares subject to the bid. Clause 44 of the code imposes both **civil** and

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criminal liability on persons responsible for false or misleading statements in **take-over** documents or otherwise in connection with the takeover. The court is being given wide powers to enforce compliance with the code and may, for example, prohibit the disposal of shares or order that voting rights attached to shares **shall** not be exercised. The **court** will also have power to declare unfair or unconscionable agreements for the benefit of directors to be void and to make certain other orders.

In the course of the two public exposures of the proposed provisions, a number of **commentators** suggested that the provisions must be sufficiently **flexible** to deal with the commercial realities of the market and so as to deal effectively with the abuses that will inevitably occur. Two provisions of the code in particular are designed to go some way to achieving this end. The first is the wide power of the national commission to exempt persons from the provisions of the Act or to declare that the **Act** will operate in respect of that person as if modified or varied in a specified way. These powers must be exercised by the commission with regard to the four major principles to which I referred earlier. Second, under clause 60 of the code the commission is given the power to declare conduct to be unacceptable and it will be able to approach the court for orders in relation to such conduct. Once again, the basis for this power of the commission is non-compliance with the four main principles underlying the provisions. It is intended that these provisions **will** give sufficient flexibility so as to enable the national **commission** to regulate takeovers effectively and efficiently.

The four bills I have mentioned provide for the substantive laws under **the** scheme. There are, however, two bills that are ancillary to the introduction of the scheme. These are the Corporate Affairs Commission Bill and the Crimes (Securities Industry) Amendment Bill. The Securities Industry (New South **Wales**) Code will operate to the exclusion of **the** existing Securities Industry Act, 1975. That Act, in addition to providing for the regulation of the securities industry, contains provisions dealing with the constitution and general functions of the New South Wales Corporate Affairs Commission. This bill repeals those provisions and substantially re-enacts them. In addition, the bill ensures that the commission can exercise functions delegated to it by the national commission, and ensures that the Minister's powers to direct the State commission in the performance of its functions cannot be exercised in any way contrary to the agreement entered into between the States and the Commonwealth.

The tenth schedule to the Crimes Act lists a number of offences, proceedings for which may with the consent of the accused be brought in the summary jurisdiction of the Supreme Court. Those offences include a number of offences under the Securities Industry Act, 1975, and the Companies Act, 1961. This bill inserts into that schedule references to offences contained in the Securities Industry (New South Wales) Code and Companies (Acquisition of Shares) (New South Wales) Code, which are equivalent to the offences already recited in the schedule. References to the appropriate offences in the companies code will be inserted by a separate bill that will be introduced at the same time as the Companies (Application of Laws) Bill.

Before concluding, I would be remiss if I did not acknowledge those responsible for the work involved in the implementation of the scheme. I must first acknowledge my colleagues both past and present on the Ministerial Council, who have approached this scheme in a spirit of co-operation and compromise. Without their enthusiasm and perseverance this scheme would have foundered long ago. My thanks must also go to the Parliamentary Counsel and officers of the States and Commonwealth whose dedicated work over a number of years has brought this scheme so close to fruition. A great **deal** of the credit in this regard must go to the officers of the Commonwealth Department

of Business and Consumer Affairs who co-ordinated the project. My special **thanks** and appreciation must, however, go to Mr F. J. O. Ryan, until recently chairman of the New South Wales Corporate Affairs Commission. Frank Ryan has been the premier force in the administration of companies and securities law in this country for over 20 years and his recent retirement was a significant loss to this State. He was respected throughout Australia for his grasp of the law and his administrative abilities. When the time came to move towards a national scheme, he approached the task with enthusiasm and dedication.

My thanks must **go** also to Mr A. B. Greenwood, now a member of the national commission who, as Assistant Commissioner for Corporate Affairs and later as Executive Director of the New **South** Wales secretariat for the companies **and** securities scheme, is entitled to much of the credit for the initial work on the scheme. My thanks must go also to the persons presently responsible for the co-operative project in this State. I refer to Mr John Cooke, the new chairman of the **commission**, who has worked tirelessly over the year to ensure the smooth implementation of the scheme; Mr Dennis Murphy, Deputy Parliamentary Counsel, who has been responsible for the drafting of this State's legislation; Mr Ralph Watzlaff, Deputy Principal Solicitor for the Corporate Affairs Commission; and Mr Tony Dreise, one of the **commission's** senior solicitors who have assisted Mr Cooke in his task.

When this Government agreed to the scheme it did so with two principal **aims**. The first was to ensure that at last the business community would be able to deal with one system of companies and securities laws for the whole of Australia. These measures together with the proposed new companies code will, I believe, achieve this end. The resulting increase in efficiency and cost saving will be of significant benefit to the business community and the public generally. Our second aim was to ensure that the laws concerning companies and securities should be administered effectively and diligently, that corporate crime should be investigated thoroughly and expeditiously and that the market for securities should be fair and well-informed. Our hope is that the new scheme would also provide a mechanism for continuing and effective law reform. It is with the hope and expectation of these aims being achieved that I commend this legislation to the House. I table a lengthy document setting out a more detailed explanation of the legislation.

*National Companies and Securities **Commission** (State Provisions)
Bill*

- (1) Introduction.
- (2) History of Companies and Securities Legislation.
- (3) Co-operative Companies and Securities Scheme.
- (4) Meetings of Ministerial Council for Companies **and** Securities.
- (5) National Companies and Securities Commission (State Provisions) Bill 1981.
- (6) Companies and Securities (Interpretation and **Miscellaneous** Provisions) (Application of Laws) Bill 1981.
- (7) Securities Industry (Application of Laws) Bill 1981.
- (8) Companies (Acquisition of Shares) (Application of Laws) Bill 1981.
- (9) Corporate **Affairs** Commission Bill 1981.
- (10) Crimes (Securities Industry) Amendment Bill 1981.
- (11) List of Annexures A-G.
- (12) List of Exhibits **A-S**.

Mr Walker]

1. *Introduction:*

This document relates to the following Bills:

- (1) National Companies and Securities Commission (State Provisions) Bill 1981.
- (2) Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill 1981.
- (3) Companies (Acquisition of Shares) (Application of Laws) Bill 1981.
- (4) Securities Industry (Application of Laws) Bill 1981.
- (5) Corporate Affairs Commission Bill 1981.
- (6) Crimes (Securities Industry) Amendment Bill 1981.

These Bills represent the first stage of the legislation necessary to put into effect the co-operative scheme for the regulation of companies and securities which has as its principal object the creation of a uniform system of companies and securities regulation throughout Australia.

2. *History of Companies and Securities Legislation*

The first steps towards uniform administration of companies and securities law in Australia were taken in the late 50's. 1961–62 saw the enactment of uniform Companies Acts in each of the States and Territories of Australia. Substantial amendments were made to those Acts in 1971 and in 1975, as the result of a reconciliation exercise, by the States covered by the Interstate Corporate Affairs Agreement.

Members will recall the company crashes and corporate scandals which followed in the wake of the mining boom in the late 60's and early 70's. Partly in response to those events, N.S.W. introduced the initial Securities Industry legislation in Australia in 1970. As well as providing for the regulation of the securities industry, that legislation established the Corporate Affairs Commission in this State.

In 1974 the then Federal Labor Government introduced a Federal Corporations and Securities Industry Bill which was intended to reform the law regarding companies and securities and to enable its administration on a National basis. Because of objections by some of the States and obstruction by the Senate that Bill was never passed and lapsed upon the dismissal of the Whitlam Government.

In 1974–75 New South Wales, Victoria, Queensland and Western Australia entered into the Interstate Corporate Affairs Agreement, a move designed by the States opposed to the then Australian Labor Government to undermine the Federal Bill introduced by the then Senator Lionel Murphy. Under that Agreement each participating State passed substantially uniform companies and securities legislation but the scheme proved less than satisfactory for a number of reasons.

Firstly, and most obviously, the scheme **suffered** from the lack of participation by the Federal Government and two of the six States. Secondly, because any matter to be decided required a unanimous vote of the Ministers of all participating States it proved an unsuitable mechanism for reform of the law. Thirdly, there was no National co-ordinating body which had appropriate powers and resources to lay down uniform policies and to deal with matters that required action on a National basis.

The New South Wales Government still believes that the Commonwealth Parliament should enact National legislation and that the States, if necessary, should refer any necessary powers to the Commonwealth to enable this to be accomplished. This State, in fact, offered to **refer** such powers to the Commonwealth but the offer was rejected by the Federal Government. Nevertheless, when in 1977 a co-operative scheme was proposed, the Government welcomed the move on the basis that the proposal represented a significant step towards the proper regulation of companies and securities law in this country.

3. Co-operative Companies and Securities Scheme

Following initial discussions held between the responsible Ministers of the States and Commonwealth Governments, the Commonwealth and the States entered into a formal agreement dated 22nd December, 1978, that provided the framework for a Co-operative Commonwealth-State uniform system of law and administration in relation to companies and the securities industry. The Northern Territory is not a party to that agreement nor are the External Territories. However, provision has been made for these Territories to join if they so choose.

The scheme provided for in the Formal Agreement has four main features:

- (1) Ministerial Council. The Agreement provided for a Ministerial Council for Companies and Securities. This Council which has already met on 11 occasions in connection with the implementation of the scheme consists of the Minister responsible for the **administra-tion** of companies and securities law from each of the six States and the Commonwealth.
- (2) National Companies and Securities Commission. The scheme provides for a National Companies and Securities Commission. This body which has now been established by the Commonwealth National Companies and Securities Commission Act, 1979 will be responsible for the administration of all legislation falling within the scheme. The members of the Commission were announced on 17th January, 1980, and their appointments took effect on 11th March, 1980. The Commission has five members, three full-time members and two part-time members. The three full-time members of the Commission are, Mr Leigh Masel (Chairman)—formerly a leading Melbourne commercial solicitor, Mr John Coleman (Deputy Chairman)—formerly the Bursar of the Australian National University, and Mr **Antony** Greenwood, formerly the Assistant Commissioner of the New South Wales Corporate Affairs **Commission**. The two part-time members of the Commission are, Mr John Nosworthy, a leading commercial solicitor from Brisbane and Mr John Uhrig, the Managing Director of Simpson Pope Limited. In its administration of the legislation the Commission will be responsible to the Ministerial Council and must act in accordance with its directions.
- (3) State Administrations. The third significant feature of the scheme agreed to under the formal agreement is that the operations of the National Commission will be decentralized to the maximum extent

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possible and that the National Commission will make full use of the facilities for companies and securities regulation which presently exist in the States. Thus, notwithstanding the fact that the National Commission is to be vested with responsibility for the administration throughout Australia of the laws relating to companies and securities it is envisaged that these powers will be delegated (particularly in relation to day to day operations) to a substantial degree, to the body in each of the jurisdictions which is presently responsible for the administration of law in this area. In New South Wales that body is the Corporate Affairs Commission. It is anticipated that the functions of the Corporate Affairs Commission, when the Co-operative Scheme is in operation, will not differ to a significant degree from those which it carries out at present.

- (4) Uniform Legislation. The fourth significant feature of the scheme is that there will be uniform legislation throughout Australia. This uniform legislation will be achieved by the constitutional device of the Commonwealth passing legislation which applies only to the Australian Capital Territory. That legislation will then be adopted in each State by means of legislation which will provide for the operation of the Commonwealth legislation in the State. Minor variations which are necessary because of the circumstances and law in a particular State will be dealt with in the relevant State Adopting Bill.

Officers from each of the States and the Commonwealth have been working for some time on the necessary legislation and the Bills before the House represent the first stage of the implementation of the National Scheme.

As members are aware, following the exposure of the Companies Bill a number of public submissions were made and the Bill was substantially revised, with the result that Ministers decided a further period of public exposure of the re-drafted Bill was warranted. This further period was extended until 21st December, 1980. The re-drafted Bill was introduced into the Commonwealth Parliament on 27th August, 1980, and submissions made during the second exposure period were considered by Ministers last month. Notwithstanding the necessary delay in the introduction of the Companies Bill there has been considerable pressure from the community for amendment to the existing takeover provisions, and the Ministerial Council decided that a separate Bill was warranted. Thus, the takeover provisions have been removed from the Companies Act and incorporated in separate Companies (Acquisition of Shares) legislation.

The present package of Bills will enable the National Commission to **effectively** administer the take-over code in this State and throughout Australia.

At this stage it is anticipated that the present package of legislation will become operative as soon as all States have passed their respective adopting Bills which will be before all Parliaments during their present sessions. The Companies legislation will be presented to the various Parliaments within as short a time thereafter as practicable.

4. Meetings of Ministerial Council for Companies and Securities

Prior to the commencement of the co-operative scheme in 1978 nine Ministerial meetings were held. The most significant of these was the meeting held at Maroochydore between the 13th and 15th May, 1978. Brief details of this meeting are set out in Annexure A.

There have been eleven ordinary meetings of the Ministerial Council for Companies & Securities since the beginning of the co-operative scheme. A list of these meetings specifying Ministers present and nature of business discussed is also set out in the same annexure.

5. National Companies and Securities Commission (State Provisions) ~~Bill~~ 1981

The Commonwealth National Companies and Securities Commission Act, 1979, was assented to on 1st February, 1980. Subsequent amendments became operative on 5th March, 1981. The initial Act established **the** National Companies and Securities Commission. The National Commission, which is situated in Melbourne, will have responsibility for the companies and securities laws covered by the Formal Agreement, subject only to directions by the Ministerial Council.

On 17th January, 1980, the Ministerial Council announced the appointment of three full-time members and two part-time members of the N.C.S.C. and those appointments took effect on 11th March, 1980. The N.C.S.C. will have such powers and functions as are conferred on it by various Commonwealth, State and Territory Acts (the "co-operative scheme legislation"). The administration of the co-operative scheme legislation **will**, so far as practicable, be carried out by the relevant administrative body in each State and Territory. The National Commission will appoint its own **staff** on terms and conditions which are determined by the Commission and approved by the Commonwealth Public Service Board.

There will be provision made for the engagement of consultants and the interchange of staff between the Commission and authorities of the State or Commonwealth. At this stage of its development the National Commission employs approximately 40 persons.

The Commission will be subject to joint Commonwealth-State control and will receive moneys from the Commonwealth and the States. The States will contribute 50 per cent of the costs and expenses of the Commission, the other 50 per cent being contributed by the Commonwealth Government.

The Commonwealth Acts are exhibits A and B hereto. Explanatory memoranda for these Acts prepared by the Commonwealth Department of Business and Consumer Affairs for the Ministerial Council form exhibits C and D hereto. Annexure B is a summary of the provisions of the **bill** as prepared by Parliamentary Counsel.

6. Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) ~~Bill~~ 1981

The (Commonwealth) Companies and Securities (Interpretation and Miscellaneous Provisions) Act, 1980, was assented to on 28th May, 1980. Subsequent amendments were assented to on 5th March, 1981. The Act provides an interpretation code for **all** the legislation coming within the National Companies and Securities Scheme and contains provisions relating to the bringing of proceedings for offences under the Scheme legislation.

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The Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill 1981 applies the provisions of the Commonwealth Act (as amended) as laws in New South Wales with minor amendments which need to be made to the Commonwealth Act in relation to its application in this State.

The Commonwealth Act as applied in N.S.W. by this Bill will be known as the Companies and Securities (Interpretation and Miscellaneous Provisions) (New South Wales) Code. The Commonwealth Acts which the Bill applies to N.S.W. are exhibits E and F hereto.

Explanatory memoranda to these Acts which were prepared by the Commonwealth Department of Business and Consumer Affairs for the Ministerial Council are exhibits G and H hereto.

Annexure C is a summary of the Bill as prepared by Parliamentary Counsel.

Exhibit I is a draft copy of the Companies and Securities (Interpretation and Miscellaneous Provisions) (New South Wales) Code, as it would apply in New South Wales if the Bill is enacted as introduced.

7. Securities *Industry* (Application of Laws) **Bill** 1981

The (Commonwealth) Securities Industry Act, 1980, received the Royal Assent on 28th May, 1980. Subsequent amendments became operative on 5th March, 1981.

The Commonwealth Act will regulate persons and institutions involved with dealings in securities. This regulation extends to investors, stockbrokers, investment advisers, stock exchanges and the corporations whose securities are listed on any stock exchange in Australia. There is a substantial similarity **between** the provisions of the Act and the existing New South Wales Securities Industry Act, 1975. It was also necessary for the Commonwealth to **enact** the Securities Industry (Fees) Bill 1980, which is a short Act dealing with fees under the Securities Industry Act, because of the requirements of the Constitution. The Commonwealth Act will apply only in the Australian Capital Territory of each State enacting appropriate adopting legislation.

The Securities Industry (Application of Laws) Bill 1981 provides for the operation in this State of the Commonwealth Act. In particular the Bill—

- (a) provides for the payment to the State Corporate Affairs Commission of fees due to the National Commission in accordance with regulations under the Securities Industry (Fees) Act;
- (b) provides for the application to New South Wales of regulations made under the Commonwealth Act;
- (c) provides for certain transitional matters; and
- (d) makes certain minor amendments to the Commonwealth **Act** for the purpose of its operation in New South Wales.

The Commonwealth **Act** when adopted in accordance with the State Act will be known as the Securities Industry (New South Wales) Code.

Exhibits J and K hereto are the **Commonwealth** Acts which will apply in New South Wales by virtue of the Bill and exhibits L to M hereto are explanatory memoranda relating to these Acts prepared by the Commonwealth Department of Business and Consumer Affairs, for the Ministerial Council.

Annexure D is a summary of the Bill as prepared by Parliamentary Counsel.

Exhibit N is a draft copy of the Securities Industry (New South Wales) Code as it would apply in New South Wales if this Bill is enacted as introduced.

8. Companies (Acquisition of Shares) (Application of Laws) Bill 1981

The (Commonwealth) Companies (Acquisition of Shares) Act 1980 received the Royal assent on 28th May, 1980. Subsequent amendments were assented to on 5th March, 1981. The Commonwealth Act substantially revises the provisions in the Companies Act 1980 regulating the making of takeover offers for corporations in accordance with decisions made by Commonwealth and State Ministers at Maroochydore in May, 1978.

The principal provisions of the Act prohibit in general the acquisition of more than 20 per cent or other prescribed percentage of shares in a corporation other than by the following three means—

- (a) acquisition by means of acquiring not more than 3 per cent of shares in the company in any period of 6 months;
- (b) acquisition pursuant to a formal take-over bid along the lines of the existing provisions;
- (c) acquisition by means of a take-over announcement on the floor of the exchange whereby the offeror agrees to accept any offers made on the exchange floor at a stated price for a specified period.

It was also necessary for the Commonwealth to enact the Companies (Acquisition of Shares Fees) Act 1980 which is a short Act dealing with fees under the Securities Industry Act, because of the requirements of the Constitution. The Commonwealth Act will apply only in the Australian Capital Territory and will achieve Australia-wide operation by means of each State enacting appropriate adopting legislation.

The Companies (Acquisition of Shares) (Application of Laws) Bill 1981 provides for the operation of the Commonwealth Acts in this State. In particular, the Bill—

- (a) provides for the payment to the State Corporate Affairs Commission of fees due to the National Commission, in accordance with regulations made under the (Commonwealth) Companies (Acquisition of Shares Fees) Act, 1980.
- (b) provides for the application to New South Wales of regulations made under the Commonwealth Act;
- (c) provides for certain transitional provisions; and
- (d) makes certain minor amendments to the Commonwealth Acts for the purpose of their application to New South Wales.

The Commonwealth Act, when applied in New South Wales in accordance with the State Act, will be known as the Companies (Acquisition of Shares) (New South Wales) Code.

Exhibits O and P hereto are the Commonwealth Acts which will apply in New South Wales by virtue of the Bill and exhibits Q and R hereto are explanatory memoranda relating to these Bills prepared by the Commonwealth Department of Business and Consumer Affairs, for the Ministerial Council.

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Annexure E is a summary of the provisions of the Bill as prepared by Parliamentary Counsel.

Exhibit S is a draft copy of the Companies (Acquisition of Shares) (New South Wales) Code as it would apply in New South Wales if the Bill is enacted as introduced.

9. Corporate Affairs Commission Bill 1981

A significant element of the Formal Agreement was that the administration of companies and securities law in each State or Territory would be carried out by the existing State administration which, in this State, is the Corporate Affairs Commission. This will be achieved by way of delegation from the National Commission.

The provisions of the (Commonwealth) Securities Industry Act 1980, as adopted by the (New South Wales) Securities Industry (Application of Laws) Bill 1981 (as referred to above) will apply in this State to the exclusion of the provisions of the Securities Industry Act 1975 which regulate the securities industry.

The Securities Industry Act 1975, in addition to providing for the regulation of the securities industry, provides for the constitution and general functions of the Corporate Affairs Commission. It is considered that these provisions should be re-enacted in a separate Bill.

The Bill, in addition to substantially re-enacting these provisions, ensures that the Corporate Affairs Commission is empowered to act as a delegate of the National Companies and Securities Commission and makes it clear that the Commission is not subject to the direction and control of the Minister where this would be inconsistent with the Formal Agreement on Companies and Securities. Annexure F is a summary of the Bill.

10. Crimes (Securities Industry) Amendment Act 1981.

In 1979 amendments were introduced to the Crimes Act to enable certain offences relating to companies and the securities industry to be brought to the summary jurisdiction of the Supreme Court. The relevant offences, which were set out in a new 10th Schedule to the Crimes Act, were certain offences under the Crimes Act, 1900, the Companies Act, 1961, the Securities Industry Act, 1970, the Securities Industry Act, 1975 and in addition certain offences at common law. The Crimes (Securities Industry) Bill 1980 inserts into the 10th Schedule of the Crimes Act those offences in the Securities Industry (New South Wales) Code and Companies (Acquisition of Shares) (New South Wales) Code which are equivalent to the offences already contained in the 10th Schedule.

References to the offences contained in the Companies Code will also need to be inserted before that Code comes into effect.

Annexure G is a summary of the Bill.

11. List of Annexures

Annexure A. Meetings of Ministerial Council for Companies and Securities.

Annexure B. Summary of National Companies and Securities Commission (State Provisions) Bill 1981.

Annexure C. Summary of Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill 1981.

Annexure D. Summary of Securities Industry (Application of Laws) Bill **1981**.

Annexure E. Summary of Companies (Acquisition of Shares) (Application of Laws) Bill **1981**.

Annexure F. Summary of Corporate Affairs Commission Bill **1981**.

Annexure G. Summary of Crimes (Securities Industry) Amendment Bill **1981**.

12. ~~List~~ of Exhibits

Exhibit A. (Commonwealth) National Companies and Securities Commission Act **1979**.

Exhibit B. (Commonwealth) National Companies and Securities Commission Amendment Act **1981**.

Exhibit C. Explanatory memorandum to (Commonwealth) National Companies and Securities Commission Act **1979**.

Exhibit D. Explanatory memorandum to (Commonwealth) National Companies and Securities Commission Amendment Act **1981**.

Exhibit E. (Commonwealth) Companies and Securities (Interpretation and Miscellaneous Provisions) Act **1980**.

Exhibit F. (Commonwealth) Companies and Securities (Interpretation and Miscellaneous Provisions) Amendment Act **1981**.

Exhibit G. Explanatory memorandum to (Commonwealth) Companies and Securities (Interpretation and Miscellaneous Provisions) Act **1980**.

Exhibit H. Explanatory memorandum to (Commonwealth) Companies and Securities (Interpretation and Miscellaneous Provisions) Amendment Act **1981**.

Exhibit I. Draft Companies and Securities (Interpretation and Miscellaneous Provisions) (New South Wales) Code.

Exhibit J. (Commonwealth) Securities Industry Act **1980**.

Exhibit K. (Commonwealth) Securities Industry Amendment Act **1981**.

Exhibit L. Explanatory memorandum to (Commonwealth) Securities Industry Act **1980**.

Exhibit M. Explanatory memorandum to (Commonwealth) Securities Industry Amendment Act **1981**.

Exhibit N. Draft Securities Industry (New South Wales) Code.

Exhibit O. (Commonwealth) Companies (Acquisition of Shares) Act **1980**.

Exhibit P. (Commonwealth) Companies (Acquisition of Shares) Amendment Act **1981**.

Exhibit Q. Explanatory memorandum to (Commonwealth) Companies (Acquisition of Shares) Act **1980**.

Exhibit R. Explanatory memorandum to (Commonwealth) Companies (Acquisition of Shares) Amendment Act **1981**.

Exhibit S. Draft Companies (Acquisition of Shares) (New South Wales) Code.

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Annexure A

1. Ministerial Meetings

Preliminary Meetings

Sydney, 24 September **1976**

Melbourne, 12 November **1976**

Canberra, **11** March **1977**

Perth, 6 May **1977**

Brisbane, **9** September **1977**

Melbourne, 24 February **1978**

Maroochydore, Queensland, **13–15** May, **1978**

Ministers Present

Commonwealth, The Hon. W. C. Fife, M.P., Minister for Business and Consumer Affairs.

New South Wales, The Hon. F. J. Walker, M.L.A., Attorney-General and Minister of Justice.

Victoria, The Hon. H. Storey, Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Queensland, The Hon. W. D. Lickiss, M.L.A., Attorney-General and Minister for Justice (Chairman).

South Australia, The Hon. P. J. Duncan, M.H.A., Attorney-General and Minister of Prices and Consumer Affairs.

Western Australia, The Hon. I. G. Medcalf, E.D., Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Tasmania, The Hon. B. K. Miller, M.L.C., Attorney-General.

Items of Business

Ministers settled the contents of the agreement between the Commonwealth and the States concerning the Co-operative Companies and Securities Scheme.

The meeting also considered a report of a **working** party of officers on reform of the law relating to take-overs and the feasibility of establishing a Take-over Panel.

Ministers also considered the nature of amendments to be made to the existing substantive laws that should be included in any initial legislation **giving** effect to the Co-operative Scheme.

Hobart, **1** December 1978

Ministers Present

Commonwealth, The Hon. W. C. Fife, M.P., Minister for Business and Consumer Affairs.

New South Wales, The Hon. F. J. Walker, M.L.A., Attorney-General and Minister of Justice.

Victoria, The Hon. H. Storey, Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Queensland, The Hon. W. D. Lickiss, M.L.A., Attorney-General and Minister for Justice.

South Australia, The Hon. P. J. Duncan, M.H.A., Attorney-General and Minister of Prices and Consumer Affairs.

Western Australia, The Hon. I. G. Medcalf, E.D., *Q.C.*, **M.L.C.**,
Attorney-General and Minister for Federal **Affairs**.

Tasmania, The Hon. B. K. Miller, M.L.C., Attorney-General.

Items of Business

The Ministers signified that their respective Governments had accepted the terms of the **Formal** Agreement which was now being presented to Premiers for signature. A legislative time-table was agreed on and this provided for priority to be given to the Bill for the National Companies and Securities Commission. The selection of the Chairman and Members of the proposed National Commission as well as major policy issues related to the administration of the Commission and its Securities Industry legislation, were deferred.

The Ministers considered a draft Company Take-overs Bill and approved its exposure to the public for comment. Such comments were to be received no later than 28 February 1979.

Ministerial Council for Companies and Securities

First Ordinary Meeting

Tanunda, South Australia: 8–9 February, 1979

Ministers Present

Commonwealth, The Hon. W. C. Fife, M.P., Minister for Business and Consumer Affairs (Chairman).

New South Wales, The Hon. F. J. Walker, M.L.A., Attorney-General and Minister of Justice.

Victoria, The Hon. H. Storey, *Q.C.*, M.L.C., Attorney-General **and** Minister for Federal Affairs.

Queensland, The Hon. W. D. Lickiss, M.L.A., Attorney-General and Minister for Justice.

South Australia, The Hon. P. J. Duncan, M.H.A., Attorney-General and Minister of Prices and Consumer Affairs.

Western Australia, The Hon. I. G. Medcalf, E.D., *Q.C.*, M.L.C., Attorney-General and Minister for Federal Affairs.

Tasmania, The Hon. B. K. Miller, M.L.C., Attorney-General.

The Hon. P. A. E. Everingham, M.L.A., Chief Minister and **Attorney-General** for the Northern Territory, attended as an observer.

Items of Business

The method to be adopted for the initial appointment of members of **the** National Commission was discussed and officers were directed to prepare appropriate recommendations for the further consideration of the **Ministerial Council**.

The draft National Companies and Securities Commission **Bill** was considered in detail. The Chairman invited Ministers **to** indicate at the **next** meeting of the Council whether their respective Governments supported **the Bill**.

Second Ordinary Meeting

Hobart, 23 February, 1979.

Ministers Present

Commonwealth, The Hon. W. C. Fife, M.P., Minister for Business and Consumer Affairs.

New South Wales, The Hon. F. J. Walker, M.L.A., Attorney-General and Minister of Justice.

Victoria, The Hon. H. Storey, Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Queensland, The Hon. W. D. Lickiss, M.L.A., Attorney-General and Minister for Justice.

South Australia, The Hon. P. J. Duncan, M.H.A., Attorney-General and Minister of Prices and Consumer Affairs.

Western Australia, The Hon. I. G. Medcalf, E.D., Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Tasmania, The Hon. B. K. Miller, M.L.C., Attorney-General (Chairman).

Items of Business

The Council considered the final terms of the National Companies and Securities Commission Bill and this was cleared for introduction into the Commonwealth Parliament.

The Council also considered the method of appointment of members of the National Commission and resolved that the services of a firm of management consultants should be engaged, to work in consultation with a liaison committee of officers.

The Council also agreed in principle upon the terms of amendments to the formal agreement relating to the Application of Administrative Remedies, Freedom of Information Legislation and Archives.

Third Ordinary Meeting

Sydney, 7 April, 1979.

Ministers Present

Commonwealth, The Hon. W. C. Fife, M.P., Minister for Business and Consumer Affairs.

New South Wales, The Hon. F. J. Walker, M.L.A., Attorney-General and Minister of Justice (Chairman).

Victoria, The Hon. H. Storey, Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Queensland, The Hon. W. D. Lickiss, M.L.A., Attorney-General and Minister for Justice.

South Australia, The Hon. P. J. Duncan, M.H.A., Minister for Health.

Western Australia, The Hon. I. G. Medcalf, E.D., Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Tasmania, The Hon. B. K. Miller, M.L.C., Attorney-General.

The Hon. C. J. Sumner, **Attorney-General** elect for South Australia, **attended as an** observer,

Items of Business

The Council gave consideration to the terms of the proposed Company **Take-overs** Bill and determined that it would be preferable for the **Bill to proceed** as the first piece of national legislation under the Co-operative Scheme for Companies and Securities. It was further resolved that this legislation

should be administered by the proposed National Companies and Securities' Commission from its inception. The Council further agreed to a number of technical amendments to the Bill but declined to agree to the concept of a take-over panel.

The Council also resolved to appoint a firm of management consultants to assist it in the selection of suitable persons to be members of the National Companies and Securities Commission.

Fourth Ordinary Meeting

Perth, 10 November, 1979.

Ministers Present

Commonwealth, The Hon. W. C. Fife M.P., Minister for Business and Consumer Affairs.

New South Wales, The Hon. F. J. Walker, M.L.A., Attorney-General and Minister of Justice.

Victoria, The Hon. H. Storey, Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Queensland, The Hon. W. D. Lickiss, M.L.A., Attorney-General and Minister for Justice.

South Australia, The Hon. K. J. Griffin, M.L.C., Attorney-General and Minister for Corporate Affairs.

Western Australia, The Hon. I. G. Medcalf, E.D., Q.C., M.L.C., Attorney-General and Minister for Federal Affairs (Chairman).

Tasmania, Mr Holgate representing the Attorney-General for Tasmania.

Mr A. J. N. O'Connor, Registrar of Companies for the Northern Territory, attended as an observer.

Items of Business

The Council unanimously approved of the introduction of the Company Take-overs Bill into Federal Parliament on the basis that it will lie on the Table until the Autumn 1980 Session.

The Council agreed to make public the draft legislation relating to the securities industry. It was agreed that the closing date for comments would be Friday, 8th February, 1980.

The Council decided to increase the annual salaries of the Chairman and members of the National Commission in the light of salary movements flowing from decisions of the Commonwealth Remunerations Tribunal in its 1979 review.

Fifth Ordinary Meeting

Canberra, 8 December, 1979.

Ministers Present

Commonwealth, The Hon. W. C. Fife, M.P., Minister for Business and Consumer Affairs (Chairman) and the Hon. R. V. Garland, Minister for Special Trade Representations.

New South Wales, The Hon. F. J. Walker, M.L.A., Attorney-General and Minister of Justice.

Victoria, The Hon. H. Storey, Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Queensland, The Hon. W. D. Lickiss, M.L.A., Attorney-General and Minister for Justice.

Mr Walker]

South Australia, The Hon. K. J. Griffin, M.L.C., Attorney-General and Minister for Corporate Affairs.

Western Australia, The Hon. I. G. Medcalf, E.D., Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Tasmania, The Hon. B. K. Miller, M.L.C., Attorney-General.

Mr A. J. N. O'Connor, Registrar of Companies for the Northern Territory, attended as an observer.

Items of Business

The Council considered a model State Bill in connection with the establishment and functions of the National Companies and Securities Commission. In the light of possible constitutional difficulties it was resolved to obtain the advice of the Solicitors General on the general form of the Bill.

The Council approved in principle a model State Bill applying the national takeover laws within the participating States. Each State was to give instructions to its Parliamentary Counsel for the preparation of a State Bill based on the model Bill.

Ministers considered a report concerning the appointment of a Chairman and members of the National Commission and resolved to consider the matter further at their next meeting.

Sixth Ordinary Meeting

Melbourne, 20 December, 1979.

Ministers Present

Commonwealth, The Hon. R. V. Garland, M.P., Minister for Business and Consumer Affairs.

New South Wales, The Hon. F. J. Walker, M.L.A., Attorney-General and Minister of Justice.

Victoria, The Hon. H. Storey, Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Queensland, The Hon. W. D. Lickiss, M.L.A., Attorney-General and Minister for Justice.

South Australia, The Hon. K. J. Griffin, M.L.C., Attorney-General and Minister for Corporate Affairs.

Western Australia, The Hon. I. G. Medcalf, E.D., Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Tasmania, The Hon. B. K. Miller, M.L.C., Attorney-General.

Items of Business

The purpose of the meeting was to finalize discussions on the membership of the National Companies and Securities Commission.

Seventh Ordinary Meeting

The purpose of the meeting was to finalize discussions on the membership of the National Companies and Securities Commission.

Seventh Ordinary Meeting

Sydney, 28 March, 1980

Ministers Present

Commonwealth, The Hon. R. V. Garland, M.P., Minister for Business and Consumer Affairs.

New South Wales, The Hon. F. J. **Walker**, M.L.A., Attorney-General and Minister of Justice (Chairman).

Victoria, The Hon. H. Storey, Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Queensland, The Hon. W. D. Lickiss, M.L.A., Attorney-General and Minister for Justice.

South Australia, The Hon. K. J. Griffin, M.L.C., Attorney-General and Minister for Corporate Affairs.

Western Australia, The Hon. I. G. Medcalf, E.D., Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Tasmania, The Hon. B. K. Miller, M.L.C., Attorney-General.

Items of Business

The Council agreed to an amendment to the draft N.C.S.C. (State Provisions) Bill to remove any possible doubt as to the constitutional basis for the Bill. It was resolved that the Bill, as so amended, be approved as the basis for the adopting legislation.

It was also resolved by the Council that the Commonwealth Companies and Securities (Interpretation and Miscellaneous Provisions) Bill be approved and that the model Application of Laws Bill which was tabled at the meeting be used as the basis of the adopting legislation.

The Council also approved the revised estimates for the National Commission and noted a number of reports concerning the operations of the Commission.

Eighth Ordinary Meeting

Adelaide, 23 May, 1980.

Ministers Present

Commonwealth, The Hon. R. V. Garland, Minister for Business and Consumer Affairs.

New South Wales, The Hon. F. J. Walker, M.L.A., Attorney-General and Minister of Justice.

Victoria, The Hon. H. Storey, Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Queensland, The Hon. W. D. Lickiss, M.L.A., Attorney-General and Minister for Justice.

South Australia, The Hon. K. J. Griffin, M.L.C., Attorney-General and Minister for Corporate Affairs (Chairman).

Western Australia, The Hon. I. G. Medcalf, E.D., Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Tasmania; Dr J. Amos representing the Attorney-General for Tasmania.

Mr A. J. N. **O'Connor**, Registrar of Companies for the Northern Territory, attended as an observer.

Items of Business

The Council unanimously approved the legislation put forward by the States to adopt the provisions of ~~the~~ Commonwealth legislation. Four Bills were submitted by each of the States and they were designated as follows—

- (i) National Companies and Securities Commission (State Provisions) Bill

Mr Walker]

- (ii) Companies (Acquisition of Shares) (Application of Laws) Bill
- (iii) Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill
- (iv) Securities Industry (Application of Laws) Bill

The Council also approved the preparation of an amendment to the Formal Agreement dated 22nd December, 1978. These amendments were essentially technical drafting matters. A number of reports prepared by the National Companies and Securities Commission on its administration were received by the Ministerial Council and noted.

Ninth Ordinary Meeting

Melbourne, 8 August, 1980

Ministers Present

Commonwealth, The Hon. K. E. Newman, Minister for Productivity representing Mr R. V. Garland, Minister for Business and Consumer Affairs.

New South Wales, The Hon. F. J. Walker, MLA, Attorney-General and Minister of Justice.

Victoria, The Hon. H. Storey, QC, MLC, Attorney General and Minister for Federal Affairs (Chairman).

Queensland, The Hon. W. D. Lickiss, MLA, Attorney-General and Minister for Justice.

South Australia, The Hon. K. J. Griffin, MLC, Attorney-General and Minister for Corporate Affairs.

Western Australia, The Hon. I. G. Medcalf, ED, QC, MLC, Attorney-General and Minister for Federal Affairs.

Tasmania, The Hon. B. K. Miller, MLC, Attorney-General.

Mr A. J. N. O'Connor, Registrar of Companies for the Northern Territory, attended as an observer.

Item of Business

The Council approved the introduction into the Commonwealth Parliament of the Companies Bill 1980 for the purpose of exposure. In doing so, the Council decided a number of policy questions as to the content of the Bill. It ~~was~~ decided that further public submissions should be received up until 21st December, 1980. The Council also approved of the introduction into the Commonwealth Parliament of the Companies (Transitional Provisions) Bill and the Companies (Fees) Bill.

The Council also approved the NCSC (State Provisions) Regulations for each jurisdiction and the NCSC Amending Regulations. Approval was also given to the Commonwealth Securities Industry (Fees) Regulations, Companies (Acquisition of Shares) Regulations and Companies (Acquisition of Shares—Fees) Regulations.

The following Bills were also approved for passage through the Commonwealth Parliament.

- (i) N.C.S.C. Amendment Bill.
- (ii) Companies (Acquisition of Shares) Amendment Bill.
- (iii) Companies and Securities (Interpretation and Miscellaneous Bill.

(iv) Securities Industry Amendment Bill.

In addition, the Council approved the introduction of the following Bills into the Commonwealth Parliament for the purpose of exposure—

- (i) Companies (Acquisition of Shares) Amendment Bill No. 2.
- (ii) Companies and Securities (Interpretation and Miscellaneous Provisions) Amendment Bill No. 2.
- (iii) Securities Industry Amendment Bill No. 2.

A number of the amendments to the Application of Laws Bills of the participating States were also approved.

The Council also received a report from the Commission and approved the Commission's estimates for **1980-81**.

Tenth Ordinary Meeting

Telephone conversation called **31 October, 1980**.

Ministers Present

Commonwealth, The Hon. R. V. Garland, Minister for Business and Consumer Affairs.

New South Wales, The Hon. F. J. Walker, M.L.A., Attorney-General and Minister of Justice.

Victoria, The Hon. H. Storey, Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Queensland, The Hon. W. D. Lickiss, M.L.A., Attorney-General and Minister for Justice.

South Australia, The Hon. K. J. Griffith, M.L.C., Attorney-General **and** Minister for Corporate Affairs.

Western Australia, The Hon. I. G. Medcalf, E.D., Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Tasmania, The Hon. B. K. Miller, M.L.C., Attorney-General.

Items of Business

The Council agreed to a deferral of the date by which the State adopting legislation must be passed to the 20th May, **1981**.

Eleventh Ordinary Meeting

Hobart, **27 February, 1981**.

Ministers Present

Commonwealth, The Hon. H. V. Garland, Minister for Business **and** Consumer **Affairs**.

New South Wales, The Hon. F. J. Walker, M.L.A., Attorney-General and Minister of Justice.

Victoria, The Hon. H. Storey, Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Queensland, The Hon. W. D. Lickiss, M.L.A., Attorney-General **and** Minister for Justice.

South Australia, The Hon. K. J. Griffith, M.L.C., Attorney-General and Minister for Corporate Affairs.

Western Australia, The Hon. I. G. Medcalf, E.D., Q.C., M.L.C., Attorney-General and Minister for Federal Affairs.

Mr Walker]

Tasmania, The Hon. B. K. Miller, M.L.C., Attorney-General (Chairman).

Items of Business

The Council agreed to a tentative date for the commencement of the first part of the Scheme legislation, namely the Share Acquisition Code and the Securities Industry Code.

The Council also agreed to the basic form of the Commonwealth Companies Bill which is to be finalized for passage through the Australian Parliament. There were a number of issues outstanding and Ministers agreed to resolve these matters by subsequent telex vote.

When the Formal Agreement relating to the Co-operative Scheme was executed by the Commonwealth and the States in 1978, the question of which Administrative Remedies legislation was to apply to the Scheme was unresolved. Subsequent negotiations lead to the preparation of a draft agreement concerning those matters and this was approved by the Ministerial Council.

Annexure B

Summary of National Companies and Securities Commission (State Provisions) Bill, 1981

The Bill contains the following provisions:

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Interpretation.

Clause 4 provides that where the National Commission is acting under State law it represents the Crown in right of the State. The clause **also** requires the National Commission to perform its functions in accordance with the Agreement.

Clause 5 relates to judicial notice of the common seal of the National Commission and the signatures and appointment of members of the National Commission.

Clause 6 provides protection for members of the National Commission when exercising functions conferred by State law, and gives certain protections to lawyers, witnesses and certain other persons, including members of the Ministerial Council set up by the Agreement.

Clause 7 relates to the holding and conduct of hearings by the National Commission for the purposes of functions conferred upon it by State law.

Clause 8 confers power on the National Commission to summon witnesses and to take evidence.

Clause 9 deals with hearings held before the National Commission and, among other things, requires proceedings to be conducted as informally as possible and provides that the National Commission is not bound by the rules of evidence.

Clause 10 deals with the failure of witnesses to attend and answer questions when required to do so by the National Commission.

Clause 11 deals with contempt of the National Commission, and makes it an offence to insult a member or to interrupt a hearing of the National Commission.

Clause **12** confers on the National Commission a power of delegation. Functions of the National Commission may be delegated to **an** authority of any State or Territory of the Commonwealth, subject to the **approval** of the Ministerial Council.

Clause **13** empowers authorities of the State to act as delegates of the National Commission.

Clause **14** empowers the National Commission to give directions to its delegates with respect to the performance of delegated functions.

Clause **15** imposes a requirement of secrecy upon certain persons associated with the National Commission.

Clause **16** imposes restrictions on certain persons associated with the National Commission in relation to certain dealings in securities.

Clause **17** requires certain persons associated with the National Commission to notify the Commission of certain interests in securities and bodies corporate.

Clause **18** provides for evidence of nominations, appointments, recommendations or other acts made or done by the Ministerial Council. The clause also enables the Ministerial Council to authorize a member of the Council to exercise a function conferred on it by State law.

Clause **19** provides for the annual report and financial statements of the National Commission together with a report of the Commonwealth Auditor-General to be tabled before each House of Parliament.

Clause **20** enables the Supreme Court to make rules relating to contempt proceedings.

Clause **21** authorizes regulations to be made by the Governor-in-Council and in particular regulations providing for the allowances **and** expenses payable to witnesses appearing before the National **Commission**. Regulations may be made only in accordance with advice that is consistent with resolutions of the Ministerial Council.

Clause **22** makes provision, in certain circumstances, for members of the Public Service who become members or employees of the National Commission to be reappointed to the Public Service of the State and for continuance of their superannuation rights.

Schedule **1** sets out the Agreement between the Commonwealth **and** the States in relation to the scheme for the co-operative regulation of companies and securities industry.

Annexure C

Summary of Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill, 1981

The Bill contains the following provisions.

Clause **1**. Short title.

Clause **2**. Commencement.

Clause **3**. Interpretation.

Clauses **4** and **5** specify the laws which are to be interpreted in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (New South Wales) Code.

Clause **6** provides that the proposed Act binds the Crown.

Mr Walker]

Clause 7 enacts that the laws referred to in clauses 4 and 5 are to be interpreted in accordance with the interpretation laws of the Australian Capital Territory subject to the provisions of the proposed Act and Code.

Clause 8 applies the provisions of the Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980 of the Commonwealth as laws of New South Wales, with amendments as set out in Schedule 1.

Clause 9 authorises the publication of the applied laws in the form of a document as applying in the State and called the "Companies and Securities (Interpretation and Miscellaneous Provisions) (New South Wales) Code".

Clause 10 authorises the publication of provisions of the applied laws following amendments made by Commonwealth legislation.

Clause 11 provides that a reference in any State law to a provision of the Code is to be construed as a reference to the provision of the Commonwealth Act applying by reason of the proposed section 8.

Clause 12 enables certain amendments to be made by regulations if the Ministerial Council agrees.

Schedule 1 contains amendments to the provisions of the Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980 of the Commonwealth in their application to New South Wales.

Schedule 2 sets out the headings and preliminary provisions to be included in the provisions to be published under clause 9.

Annexure D

Summary of Securities Industry (Application of Laws) **Bill**, 1981

The Bill contains the following provisions.

Clause 1. Short **title**.

Clause 2. Commencement.

Clause 3. Arrangement of the **Bill**.

Clause 4. Interpretation.

Clause 5 provides that the Securities Industry (New South Wales) Code is to be interpreted in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (New South Wales) Code.

Clause 6 applies the provisions of the Securities Industry Act 1980 of the Commonwealth as laws of New South Wales, with amendments as set out in Schedule 1.

Clause 7 applies the provisions of the regulations in force under **the** Securities Industry Act 1980 of the Commonwealth as regulations made under the provisions applying by reason of the proposed section 6, with amendments to those regulations as set out in Schedule 2.

Clause 8 requires fees to be paid to the Corporate **Affairs** Commission in respect of documents lodged and other matters connected with **the** National Companies and Securities Commission.

Clause 9 empowers regulations to be made by the Governor-in-Council which are to have the effect of varying the provisions of regulations applying by reason of the proposed section 7.

Clauses **10–12** authorise the publication of the applied laws in the form of documents as applying in the State and respectively called the "Securities Industry (New South Wales) Code", the "Securities Industry (New South Wales) Regulations" and the "Securities Industry (Fees) (New South Wales) Regulations".

Clause **13** authorises the publication of provisions of the applied laws following amendments made by Commonwealth legislation.

Clause **14** provides that a reference in any State law to a provision of such a Code or regulations is to be construed as a reference to the provision of the Commonwealth Act or regulations applying by reason of the proposed section **6** or **7**.

Clause **15** enables certain amendments to be made by regulations if the Ministerial Council agrees.

Clause **16** excludes the operation of the Securities Industry Act, **1975**.

Clauses **17–35** deal with matters of a transitional nature.

Clause **36** empowers the Supreme Court to resolve difficulties arising in the application to a particular matter of any of the provisions of the Securities Industry (New South Wales) Code or the Securities Industry Act, **1975**, by reason of the operation of clauses **17–35** of the proposed Act.

Schedule **1** contains amendments to the provisions of the Securities Industry Act **1980** of the Commonwealth in their application to New South Wales.

Schedules **2** and **3** contain amendments to the provisions of regulations under the Commonwealth Act in their application to New South Wales.

Schedules **4**, **5** and **6** set out the headings and preliminary provisions to be included in the provisions to be published under clauses **10–12**.

Annexure E

Summary of Companies (Acquisition of Shares) (Application of Laws) **Bill, 1981**

The Bill contains the following provisions

Clause **1**. Short title.

Clause **2**. Commencement.

Clause **3**. Interpretation.

Clause **4** applies the provisions of the Companies (Acquisition of Shares) Act 1980 of the Commonwealth as laws of New South Wales, with amendments as set out in Schedule 1.

Clause **5** provides that the provisions applying by reason of the proposed section 4 operate to the exclusion of the existing takeover provisions contained in the Companies Act, **1961**, and are to be treated as part of that Act.

Clause **6** applies the provisions of the regulations in force under the Companies (Acquisition of Shares) Act **1980** of the Commonwealth as regulations made under the provisions applying by reason of the proposed section 4, with amendments to the regulations as set out in Schedule 2.

Mr Walker]

Clause 7 provides that the provisions applying by reason of the proposed section 6 are to be treated as part of the regulations made under the Companies Act, 1961.

Clause 8 provides that references to the Corporate Affairs Commission in the Companies Act, 1961, shall be construed as references to the National Companies and Securities Commission in connection with matters arising under the provisions applied by the proposed sections 4 and 6.

Clause 9 requires fees to be paid to the Corporate Affairs Commission in respect of documents lodged and other matters connected with the National Companies and Securities Commission. The fees are to be those prescribed by regulations in force under the Companies (Acquisition of Shares-Fees) Act 1980 of the Commonwealth, with amendments as set out in Schedule 3.

Clause 10 empowers regulations to be made by the Governor-in-Council which are to have the effect of varying the provisions of regulations applying by reason of the proposed sections 6 and 9.

Clauses 11–13 authorize the publication of the applied laws in the form of documents as applying in the State and respectively called the "Companies (Acquisition of Shares) (New South Wales) Code", the "Companies (Acquisition of Shares) (New South Wales) Regulations" and the "Companies (Acquisition of Shares-Fees) (New South Wales) Regulations".

Clause 14 authorizes the publication of provisions of the applied laws following amendments made by Commonwealth legislation.

Clause 15 provides that a reference in any State law to a provision of such a code or regulations is to be construed as a reference to the provision of the Commonwealth Act or regulations applying by reason of the proposed Act.

Clause 16 enables certain amendments to be made by regulations if the Ministerial Council agrees.

Clause 17 deals with matters of a transitional nature in connection with takeovers pending at the commencement of the proposed Act.

Clause 18 makes consequential amendments to the Companies Act, 1961.

Schedule 1 contains amendments to the provisions of the Companies (Acquisition of Shares) Act 1980 of the Commonwealth in their application to New South Wales.

Schedules 2 and 3 contain amendments to the provisions of regulations under the Commonwealth Act in their application to New South Wales.

Schedules 4, 5 and 6 set out the headings and preliminary provisions to be included in the provisions to be published under clauses 11–13.

Annexure F

Summary of Corporate Affairs Commission Bill, 1981

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Interpretation.

Clause 4. Re-constitutes the Corporate Affairs Commission and provides for the appointment of Commissioners.

Clause 5. Provides for the terms of appointment of Commissioners.

Clause 6. Provides for the preservation of superannuation and other rights of a Commissioner which accrued prior to his appointment.

Clause 7. Provides for the conduct of meetings of the Commission.

Clause 8. Provides for the appointment and employment of officers and employees of the Commission.

Clause 9. Provides for the affixing of the Common Seal of the Commission or the execution of documents on behalf of the Commission to be carried out by a Commissioner or an officer or employee of the Commission, duly authorized.

Clause 10. Firstly, enables the Commission to exercise such powers as may be conferred upon it by any Act of the State, another State or Territory or the Commonwealth. Secondly, requires the Commission to report to the Minister when required to do so on matters of policy and, thirdly, makes it clear that the Commission is subject to the control of the Minister but not in so far as such control would be inconsistent with the Formal Agreement between the Commonwealth and the States concerning Companies and Securities.

Clause 11. Provides for the disposal of moneys by the Commission and the auditing of its accounts by the Auditor-General.

Clause 12. Provides for an Annual Report by the Commission.

Clause 13. Provides for the delegation by the Commission of its functions.

Clause 14. Provides for the giving of directions by the Commission in respect of delegated functions.

Clause 15. Contains provisions dealing with secrecy by members and officers of the Commission.

Clause 16. Imposes restrictions on members and officers of the Commission in relation to dealings in Securities.

Clause 17. Provides for the notification of certain interests by Commissioners or officers or employees of the Commission.

Clause 18. Provides that references in other Acts to the Corporate Affairs Commission, Commissioner for Corporate Affairs or Registrar shall be deemed to be references to the Corporate Affairs Commission constituted under the Bill.

Clause 19. Contains provisions dealing with the bringing of proceedings for offences under the Bill.

Clause 20. Provides for the operation of Schedule I.

Clause 21. Provides that Schedule 2 shall have effect.

Clause 22. Provides for the making of regulations by the Governor.

Schedule 1 provides for the repeal of certain provisions of the Securities Industry Act, 1975, and amending Acts, the Futures Markets Act, 1979, and Miscellaneous Acts (Retirement of Statutory Officers) Amendment Act, 1980.

Schedule 2 contains saving and transitional provisions.

Annexure G

Summary of Crimes (Securities Industry) Amendment Bill, 1981

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Makes the necessary amendments to the 10th Schedule of the Crimes Act so that the offences under the Securities Industry (New South Wales) Code and the Companies (Acquisition of Shares) (New South Wales) Code which are equivalent to the offences already recited in that Schedule, are also recited.

Debate adjourned on motion by Mr Dowd.

FELONS (CIVIL PROCEEDINGS) BILL

Introduction

Motion (by Mr Walker) agreed to:

That leave be given to bring in a bill for an Act to provide that a person convicted of, or found to have committed, a felony shall not be incapable of instituting and maintaining civil proceedings in any court.

Bill presented and read a first time.

Second Reading

Mr WALKER (Georges River), Attorney-General and Minister of Justice [9.20]: I move:

That this bill be now read a second time.

The bill represents an important reversal of an extraordinary aberration in the New South Wales common law. That aberration was long regarded as extinct, an archaic and feudal denial of rights which had disappeared from the common law in the same way as trial by battle and witch burning. I am speaking of the ancient doctrines of attainder of felony and corruption of the blood. Without embarking on a detailed historical analysis of their origins, their remaining practical effect is the complete abrogation of the right of a person convicted of a felony to institute or maintain civil proceedings in any court. Perhaps I should say this is their known effect, for the full extent of the application of the doctrines has never been judically considered. In fact the continued application of the doctrines in New South Wales law had not really been formally acknowledged until Darcy Dugan commenced defamation proceedings against Mirror Newspapers Limited.

In those proceedings before Mr Justice Yeldham, His Honour expressed the view that the English common law, depriving a felon of the right to sue in a court of law, was in force in New South Wales at the time of its settlement. Therefore it became part of the law of the colony, unaffected by 19th century English statutes abolishing the doctrine. His Honour's view was confirmed by both the Court of Appeal and finally the High Court. But since the moment Mr Justice Yeldham's decision was handed down, the state of the New South Wales law in this area has been the subject

of widespread criticism, notably from the judiciary, the Australian Law Reform Commission and in the report of the Royal Commission into New South Wales Prisons. The bill will remove the present legal disability that prevents convicted felons from instituting and maintaining civil proceedings in New South Wales.

I doubt that any honourable member would deny that this action by the Government is entirely proper. I am pleased to have been instrumental in bringing the measure before the House. When honourable members have had the opportunity to peruse the bill, they will observe that clauses 4, 5, 6, and 7 place some restraint on the commencement of civil proceedings by felons in custody. They provide that no such proceedings should be commenced unless the leave of the court has **first** been obtained.

The only reasons for refusal of the grant of leave will be that the court is not satisfied that the proceedings are not an abuse of court process, and that there is a prima facie ground for the proceedings. This aspect of the measure is designed **simply** to prevent persons in custody, having been convicted of a felony, from attempting to institute vexatious or frivolous actions. Naturally the Government is concerned that in the interests of the proper administration of justice and for the protection of the welfare of the community as a whole, efforts should be made to ensure that prisoners are not able to take advantage of the removal of their legal disability to attempt to disrupt the due processes of the law.

What the prospects of such behaviour from prisoners may be no one can say, but I am confident the House will agree that if attempts are to be made to prevent convicted felons from initiating irresponsible actions, it is important that the task of considering whether a prisoner is to be given the opportunity to come to court should be vested in the court itself and not in an anonymous official within the prisons system. Finally, I emphasize that the bill does nothing to affect or limit the rights of persons in custody after having been convicted of misdemeanours. It **would** not be just for the Government to limit such prisoners' rights while legislating for the restoration of the rights of another class of prisoner. Of course the position will be **anomolous**, but no more so than the position that obtains due to the continuing historical distinction between felonies and misdemeanours. That distinction must inevitably be abrogated but honourable members will understand that this bill is not an appropriate vehicle to achieve that end.

The bill will remove an archaic hangover from medieval law and ensure that the full consequences of sentences of penal servitude are apparent when handed down. The covert application of the doctrine of attainder of felony **will** no longer be allowed to subsist as a hidden punishment following conviction for felony. I commend the bill to the House. I table short explanatory material detailing its provisions.

Felons (Civil Proceedings) Bill, 1981

Clause 1: States the short title by which the Act will generally be known.

Clause 2: Provides that the principal parts of the Act will commence on a day to be appointed by the Governor. This will permit appropriate Rules of Court to be **promulgated** to commence on the same day.

Clause 3: Removes the legal disabilities which prevent convicted felons from instituting **and** maintaining civil proceedings.

Clause 4: Provides that a convicted felon in custody cannot institute **civil** proceedings except with the leave of the court in which the proceedings are to be instituted.

Clause 5: Requires a court, before granting leave to a person to institute proceedings under clause 4, to be satisfied that the proceedings are not an abuse of court process and that there is prima facie ground for the proceedings. This is similar in form to existing provisions of the Supreme Court Act dealing with vexatious or frivolous litigation.

Clause 6: Provides for an appeal to be made from a decision refusing leave to bring proceedings.

Clause 7: Limits the rights of appearance of certain persons at the hearing or determination of applications and appeals under the Act.

Clause 8: Provides for the making of rules of court for or with respect to the practice and procedure to be followed in relation to applications or appeals under the Act.

Debate adjourned on motion by Mr Dowd.

GROWTH CENTRES (DEVELOPMENT CORPORATIONS) AMENDMENT BILL

Introduction

Motion (by Mr Day) agreed to:

That leave be given to bring in a bill for an Act to amend the Growth Centres (Development Corporations) Act, 1974, so as to constitute a corporation sole for the purpose of exercising and discharging certain responsibilities, powers, authorities, duties and functions with respect to certain land in the City of Campbelltown, the Municipality of **Camden**, the Shire of Wollondilly, the City of Liverpool and the Shire of Sutherland.

Bill presented and read a first time.

Second Reading

Mr DAY (Casino), Minister for Industrial Development and Minister for Decentralisation [9.28]: I move:

That this bill be now read a second time.

The purpose of the bill is to amend the Growth Centres (Development Corporations) Act, 1974, as amended, so as to bring the Macarthur **growth** area under the provisions of that Act, which I administer. This would result in the responsibility for the three growth areas of the State, namely, the **Bathurst-Orange** growth centre, the **Albury-Wodonga** growth centre and the Macarthur growth area, being grouped within the one portfolio. It will also allow greater benefit to accrue from the State's efforts in the field of industrial land marketing, which is a crucial part of the Government's increasing success at containing unemployment by facilitating job creation.

The Government's record of achievement with the Macarthur growth area is considerable and commendable. The area got its **impetus** from the provision of \$21.6 million from the **Whitlam** Government in 1974 and 1975 in what was to be a partnership between the State and the Commonwealth. But as has so often been the case, the **Fraser** Government soon threw aside involvement in this worthwhile project. In 1977-78 Commonwealth funds amounting to a trickle of \$1.5 million were provided, and dried up completely thereafter. However, the Government believes in Macarthur and since it came to power it has raised funds of \$36 million for use by the Macarthur Development Board. The Government is carrying the development burden on its own.

Macarthur is not the only area to be treated shabbily by the **Fraser** Government. **It** is clear that that government has decided to abrogate all of its previously agreed **financial** and co-operative responsibilities for growth areas, quite unilaterally, and, in the **case** of **Albury-Wodonga**, quite arrogantly. It made that decision as if **the** long-term planning for the creation **and** then implementation of great growth areas **can** be switched off without any consideration of the stage reached. It ignored the massive early infrastructure costs required to set up the whole project. It did not consider the ordinary folk attracted to live in a growth centre because of the better way of **life** it affords for them and their children; and the industrialists and businessmen, big and small, who were attracted by the benefits given by the vision of the completed project. Those industrialists and businessmen provide the framework for the economic viability of growth areas by providing jobs and flow-on business opportunities. What do we tell them? Do we say, "Sorry, we can't go ahead"?

The Wran Government has not done that. It has continued to carry the full burden of the Macarthur and Bathurst-Orange growth centres. I am fighting to ensure at least some modicum of continued involvement of the Commonwealth in **Albury-Wodonga**. It would help if the Commonwealth Minister for National Development and Energy, Senator the Hon. J. L. Carrick, would deign to attend a ministerial meeting on **Albury-Wodonga**, but he obviously does not **want** to spoil his record of never attending. This reflection of the Commonwealth's lack of interest is obvious.

The achievements that have been consolidated and achieved under my department in the Macarthur area include a population increase from 30 000 in 1968 to a current population of about 120 000, with a growth rate of about 13 000 per annum. In this regard, it is already 25 per cent of the way towards the population target of half a million, with Campbelltown nearly 50 per cent towards its target of about 200 000. Another achievement is that the substantial Minto and Ingleburn industrial estates have been rendered flood free. They are fully serviced and are being progressively developed for industrial purposes. Several national and multinational **firms** are committed to the estates so far, and there will be an ultimate work force of around 10 000 when the industrial estates are fully developed. The Macarthur regional centre has been opened, with major road and bridge works. The first major shopping **complex**, Macarthur Square, is operating and providing employment for about 1 000 persons. The **Minto** district centre is under construction and will offer jobs for a further 300 people, and will be providing a substantial retail service to the new population in **this** locality in about six months.

Though any unemployment is to be regretted, and is usually particularly severe in new areas, the Macarthur performance is outstandingly good. It has remained relatively constant between 2 000 and 2 500 persons at a time of an **expansion** of the resident work force, due to population growth, of probably 3 000 persons or more a year. A new hospital has been **built**, and the first stage of the new technical **college** is to **open** shortly. In addition a new championship-standard golf course has been built and a multipurpose entertainment centre should soon be **built** in the regional centre. **All** land for urban development for the new City of Campbelltown has been **won**, and detailed plans have been **almost** completed. The Housing Commission is nearing the end of a public housing programme in Campbelltown for about 35 000 **people**. The **Land Commission** has extensive estates **under** subdivision. **Both** organizations **look** to the **Camden** expansion at Narellan after 1982, and arrangements are currently in hand for this new town area. In short, this project has gained an enviable **national** and international reputation.

The bill is a simple one. It brings the Macarthur growth area within **the** ambit of the Growth Centres (Development Corporations) Act, 1974, as amended, and provides for the director of my department to be a corporation sole with respect to the Macarthur growth area as far as that **Act** is concerned. It should be noted **that this**

allows for the continuation of exactly the same kind of management arrangement as has existed previously with Macarthur, under the Minister for Planning and Environment. A development corporation was not constituted. The Macarthur Development Board operated as an advisory committee to the Minister and his department. This successful arrangement will be maintained under my administration. A Macarthur Development Board will be re-established, with at least the same range of representation, to act as an advisory committee to me and to the corporation sole, and I am confident it will greatly assist in maintaining the splendid momentum that is so evidently present in Macarthur. I commend the bill to the House.

Debate adjourned on motion by Mr Murray.

POULTRY PROCESSING (AMENDMENT) BILL

Introduction

Motion (by Mr Day) agreed to:

That leave be given to bring in a bill for an Act to amend the Poultry Processing Act, 1969, to make further provision with respect to the powers of inspectors, to make provision with respect to the importation of poultry meat into the State, to establish standards of construction and hygiene for poultry processing plants and to increase certain penalties.

Bill presented and read a first time.

Second Reading

Mr DAY (Casino), Minister for Industrial Development and Minister for Decentralisation [9.37]: I move:

That this bill be now read a second time.

The Poultry Processing Act was introduced in 1969 to provide control over the water uptake of frozen poultry carcasses. The Act provided for a maximum uptake of 8 per cent water during the washing and chilling processes used in poultry processing plants. The Act is administered by the Department of Agriculture's Division of Animal Health through three inspectors. The amendments before Parliament are intended to expand the powers under the Act to enable the Department of Agriculture to control the standards of construction and hygiene of poultry processing plants and the conditions for the approval of poultry meat for human consumption.

Most poultry meat produced in Australia is processed in modern plants that incorporate the principles of hygiene in their construction and operation. However, some plants are faulty and the standard of hygiene of many plants is inadequate; therefore Government supervision of the standard of plants to ensure that poultry meat is produced according to the same principles as other meats is necessary. Red meats are subjected to individual carcass inspection by a Government inspector because some animal diseases that may infect humans can be detected in this way. In poultry meat, however, the occurrence of such diseases is rare and thus a system of Government supervision of the processing plants by random inspection was developed. This system is designed to ensure the production of hygienic poultry meat free from any danger to human health.

Food poisoning organisms such as salmonella occur in small numbers in all animal and some plant products, and are normally destroyed by correct cooking, and controlled by refrigerated storage. Incorrect storage or cooking procedures can

occasionally lead to outbreaks of food poisoning. The organisms involved are unable to be detected by examination of the carcass, but their numbers can be minimized by hygienic processing and storage. The amendments to the Act will ensure that **poultry** meat sold in New South Wales meets desired standards. Liaison with other States has been established through the Australian Agricultural Council to ensure that uniform standards apply throughout Australia. There are **110** plants, which last year processed about **100** million birds. Some process 500 buds a year while about twelve plants, processing more than 1 million birds each per year, produce more than **80** per **cent** of all poultry meat in New South Wales.

It is proposed that in the near future regulations will be developed to provide **details** of conditions for registration of plants, and to ensure minimum hygiene standards are met. It is proposed also that four inspectors will be appointed in addition to the present three inspectors, and that the cost of **\$100,000** per annum of the four additional inspectors will be met by charging a registration fee related to the size of the plant. These poultry inspectors will operate under direct veterinary supervision. It is understood that the major poultry processing organizations, represented by Dr J. Fairbrother, Executive Director of the Australian Poultry Industries Association, **will** welcome the legislation as a means of assuring consumers that poultry meat is wholesome and is produced under Government supervision. However, token resistance to charging the cost of four additional inspectors to the industry can be expected.

There has been some opposition to the extent of the powers of inspectors. To prevent possible abuses, it is intended to **limit** inspectors' powers by regulation or by administrative action. But it is necessary for the Act to grant sufficient powers for an inspector to stop unhygienic practices immediately without having to refer to higher authority. The proposal serves to bring poultry meat production into line with other meat production by ensuring that poultry processing is carried out under the supervision of Government inspectors operating under veterinary supervision. I table additional explanatory information to assist members in their understanding of the bill and I commend it to the House.

Poultry Processing (Amendment) Bill, 1981

Clause 1 contains the short title and clause **2** contains the commencement provisions.

Clause 5 provides that the principal Act is amended in the manner set forth in schedules 1 to **7**.

Clause **6** provides for the continuation of plants presently registered under the Act until the 30th June succeeding the day appointed by the Governor for commencement of the Act, or the expiration of twelve months from the date of registration of the plant, whichever occurs first.

The amendments relating to registration of plants are set out in schedule 2 which are explained later.

Schedule **1** amends the principal Act to make further provision with respect to the powers of inspectors appointed for the purposes of the Poultry Processing Act, **1969**. These powers are similar to powers given to inspectors under the Meat Industry Act and simply expand the existing powers of inspector to ensure that the proposed minimum standard of construction and hygiene in poultry processing plants is able to be maintained and that poultry meat produced in plants registered under the Act is wholesome.

Mr Day]

Provision is made in section 6, page 5 of the bill, for inspectors at all reasonable times to enter and remain in or on a registered plant or premises suspected of being used in contravention of the registration requirements of the Act, to inspect any poultry meat in or on any such plant, premises or vehicle and to carry out **certain** tests to ensure hygiene requirements are being met.

Section **6A** of schedule 1 on page 6 provides that an inspector may give directions to ensure the hygienic and humane carrying on of the whole or any part of the process; and to ensure that any weight gain of carcasses due to water uptake not exceed the prescribed percentage.

Directions that require the installation or alteration of any machinery or equipment must be in writing and given with the approval of the Chief, Division of Animal Health. Directions which would result in the cessation of, or a substantial reduction in, the production of **poultry** meat at the plant are also required to be in writing and given to the operator of the plant or person in charge of production. This requirement was added after discussion with representatives of the poultry industry and has been inserted to allay fears of an inspector unnecessarily disrupting the operations of the plant.

Section **6B** provides power for an inspector to condemn as unfit for human consumption any poultry or poultry meat that is in or on any plant or give directions for the treatment of poultry meat for the purpose of making or keeping it fit for human consumption.

Clause 4 of section **6B** provides that where any poultry or poultry meat is condemned as unfit for human consumption the inspector may seize the poultry or poultry meat and cause it to be destroyed or otherwise disposed of.

Section **6C** provides that where any poultry or poultry meat is **seized** under the above section it shall become the absolute property of the Crown and no compensation shall be payable in respect of the seizure.

Section **6D** enables an inspector to enter any premises for the purpose of inspection of any accounts, records, **books** or documents relating to the carrying on of poultry processing. This clause is a usual provision inserted to enable inspectors to ensure that the requirements of the Act are being complied with where accounts, records or documents are not kept at the registered plant.

Sections **6E**, **6F**, **6G** and **6H** relate to questions by inspectors and obstruction of an inspector in the exercise of his functions under this Act. Similar provisions exist in the Meat Industry Act, 1978.

Schedule 2 on page 12 of the bill **contains** the amendments relating to registration of plants. "Plant" means any premises used or intended to be used for or in connection with the carrying on of the whole or any part of the process. "Process" means any act done in relation to the preparation of poultry meat for sale, namely—the delivery of **poultry** to any premises for killing; the killing of poultry; the evisceration, cutting, boning and packaging of raw poultry meat; but does not include any act done on premises comprising a retail shop or store, restaurant or other prescribed premises.

The amendments to section 9 on page 14 of the bill relate to applications for registration or for renewal of registration of plants and provide that registration may be refused if the plant in respect of which the application is sought does not comply with the prescribed **minimum** standards. Plants **may**, for the purpose of registration, be classified by reference to capacity

to produce poultry meat for sale; floor space or such other factors as may be prescribed. Fees for the registration of plants will be prescribed by regulation having regard to the above classifications.

Section 9 (4) (a) and (b) provides that registration shall be in force for a period from the date specified as the date of issue of registration in the certificate of registration until the 30th June next succeeding that date and a certificate of registration may be issued subject to such conditions and restrictions as may be specified in the certificate.

Section 9A on page 5 of the bill provides that where the operator of a registered plant makes any prescribed structural alterations or additions to the **plant** he shall first obtain the approval in writing of the Minister or be guilty of an offence against the Act.

Section 9B provides the Minister may suspend the registration of a plant for such period as he thinks fit or may cancel that registration if a plant does not comply with any prescribed minimum standards provided the operator of the plant has first been given a notice specifying the standards that have been breached and is given a reasonable time to rectify such breach.

Schedule 3 on page 17 makes provision with respect to the importation of poultry meat into the State. A similar provision is in the Meat Industry Act.

Section 13A provides that a person shall not bring into the State any poultry meat for sale **unless** the poultry from which it came was processed at a plant approved by instrument in writing by the **Chief**, Division of Animal Health. The purpose of this amendment is to ensure that poultry meat coming into the State is processed in accordance with acceptable standards.

Schedule 4 of the bill commencing on page 19 makes further **provision** with respect to matters in respect of which regulations may be made under the Act. These amendments are **necessary** to ensure that there is appropriate power in the Act to make regulations with respect to the minimum standards of construction and of equipment in registered plants; the keeping of records by the operators of those plants; the functions of inspectors relating to the hygienic and humane carrying on of the whole or any part of the process at registered plants, the registration of plants, the clothing to be worn in plants and the prescribing of tests for water uptake in poultry. The amendment to section 16 (3) on page 21 is a drafting precaution to ensure that there is power in **the Act** to make regulations **having** regard to any contingencies or factors that may be necessary to take into **account** in framing the **regulation** and to enable the adoption by reference to any published codes, **rules, specifications** or provisions which relate to any matter with which the regulation deals.

Schedule 5 on page 23 of the **bill** amends the principal Act relating to penalties. The increase in penalties is in line with the general policy to review penalties in any amending legislation.

Schedule 6 and schedule 7 on pages 23 to 26 of the bill contain miscellaneous amendments to the bill of a minor and consequential or ancillary nature and by way of statute law revision.

Debate **adjourned** on motion by Mr **Murray**.

BANANA INDUSTRY (AMENDMENT') BILL

Introduction

Motion (by Mr Day) agreed to:

That leave be given to bring in a bill for an Act to amend the Banana Industry Act, 1969, to provide that the maximum charge that the Banana Marketing Control Committee may impose on banana growers shall be such charge as is prescribed by regulation instead of 10 cents per bushel; to increase the penalties which may be imposed under that Act; and for the purpose of statute law revision.

Bill presented and read a first time.

Second Reading

Mr DAY (Casino), Minister for Industrial Development and Minister for Decentralisation [9.45]: I move:

That this bill be now read a second time.

The New South Wales banana industry produces two-thirds of the nation's crop, with 2 000 growers producing annually about 85 000 tonnes of bananas worth \$28 million at the wholesale level. The New South Wales industry has an outstanding record of self-help and co-operation with government departments. All growers are members of the Banana Growers Federation Co-operative Limited, which organizes an efficient transport system for all fruit and vegetables from northern New South Wales to markets in all States.

Last year the banana industry in Queensland and New South Wales spent \$600,000 on banana promotion. The industry makes positive attempts to **improve** marketing and the quality of fruit presented to consumers. It employs quality control officers at all railhead loading points to enforce minimum standards of quality **set by** the co-operative. No quality standards are imposed by regulation. The **industry** improved facilities at railhead so that fruit is loaded in better—that is cooler—conditions. Thus quality to consumer has improved by better ripening and shelf life. Recently several board members of the banana growers' federation visited South Africa to investigate better marketing methods. They intend to implement many initiatives studied there.

The banana growers federation has opened up wholesale operations in major southern markets to ensure healthy **competition** at that level and has sponsored **market** research programmes especially through the University of New England, Armidale. It has instigated also a programme to investigate and introduce new ripening procedures, improved packaging and better use of palletization. Industry and departmental trials are aimed at improving quality of bananas available to consumers by the introduction of forced air cooling and ripening in new packages designed to suit this technology.

The Banana Growers Federation Co-operative Limited finances and operates **an** efficient pest and disease control programme, particularly for bunchy top disease in the north and banana weevil borer in the south. In the past three years the Government has contributed \$60,000—that is \$20,000 a year on a **\$2** government to **\$1** industry basis to implement an additional scheme of eradication within the existing industry funded bunchy top disease control programme. Under the new eradication phase, chronically infected plantations are purchased and destroyed.

The main object of this bill is simply to provide that the maximum charge that the banana marketing control committee may impose on banana growers shall be as prescribed by regulation instead of the limitation in the Act at present of 10c a bushel for all bananas offered for sale. It is not intended to increase the present charges. In fact, the charge that will be imposed by regulation will be slightly less than the present charge. The opportunity has also been taken to revise the penalties that may be imposed under the Act, and to make other minor amendments by way of statute law revision. I commend the bill to honourable members.

Debate adjourned on motion by Mr Murray.

FORESTRY (AMENDMENT) BILL

Introduction

Motion (by Mr Gordon) agreed to:

That leave be given to bring in a bill for an Act to amend the **Forestry Act, 1916**, to vary and extend the powers of the Forestry Commission of New South Wales; and for other purposes.

Bill presented and read a first time.

Second Reading

Mr GORDON (Murrumbidgee), Minister for Lands, Minister for Forests and Minister for Water Resources [9.48]: I move:

That this bill be now read a second time.

The primary object of the Government's varying the powers of the Forestry Commission of New South Wales as proposed in this bill is to equip the commission with clear powers to enter into the spheres of commercial wood processing and other commercial activities arising from its function under the Forestry Act. It has no proposals under consideration for such commercial involvement in wood processing. However, in recent years the commission and the Government have examined several proposals that appeared to have potential for sound investment by the commission. They proposed utilizing the Crown timber resource from *pinus* plantations, which the commission has established. It is intended that adequate powers be available in the **Forestry Act** to permit any desirable proposal that might present itself in the future to be considered.

An associated feature of the legislation is the empowering of the commission to borrow money, and the commission's ability to enter into agreements is to be extended for purposes of commercial activities and for the purpose of enabling it to enter into joint arrangements with landowners for the control and silvicultural management of their land by the commission. I assure honourable members that there are built-in safeguards that will require that the commercial powers, which I shall later explain in detail, may be exercised only with the approval of the Minister, granted with ~~the~~ concurrence of the Treasurer, and, further, that any undertaking of the control and silvicultural management of private lands by the commission will require the Minister's prior approval.

Another group of amendments is designed to clarify and confirm the commission's ability to sell or otherwise dispose of surplus and obsolete vehicles, aircraft and equipment, to adapt and sell vehicles and equipment for firefighting and other uses and to let out its vehicles, aircraft and equipment on hire on an occasional basis when not

otherwise in use. Before tabling for the benefit of honourable members a description of the **provisions** of the bill clause by clause, I shall endeavour to set the scene in order that the necessity for those **provisions** may be appreciated. The Forestry **Commission** is traditionally a grower of trees, a producer of timber to the stage of cutting down the tree, or issuing a licence for some other person to cut it down and remove it as is more usually the case.

The commission has been the manager of the state forests on behalf of the **State** and has provided a raw material supply for the timber industry. By a system of annual quotas it has sustained the life of many sawmills and to a great extent must be said to be integrated with the industry. It depends on the industry to take its produce as the industry depends on the commission to supply it. This harmonization between the commission's production and the requirements of industry has as its governing influence the overall need of the State for adequate supplies of timber. The Forestry Act is a rather old **Act**, having been passed in 1916, when the Forestry **Commission** was constituted.

The Government at that time included amongst the commission's other powers provision for it to construct, purchase, or rent sawmills and other mills with the necessary machinery and plant for converting timber, and manufacturing articles from timber, and use such mills for those purposes. The Minister at that time made his position quite clear in that he regarded the establishment of State sawmills as an urgent public necessity in the light of circumstances existing at that time and made the point that if the Government undertakes the work of looking after the state forests, it is entitled to derive the benefit of every penny of revenue that can be obtained from them. **It** appears that two sawmills, at Craven and Gloucester, were purchased in 1917 and operated with a forest railway until 1925, when they were transferred to private ownership under changed Government policy.

When the Forestry Act was amended in 1935 the provision was repealed, the Minister at that time stating that the Government was adverse to the commission engaging in **trading** operations. In any case the power was not being **exercised** and therefore there **would** be no change in practice. In those days the establishment of *pinus* **in** plantations was really still in its infancy but today the plantations, including trees planted at about that time, are yielding large volumes of timber and are still considerably expanding in area as planting of seedlings is undertaken year by year in an endeavour to maintain continuity of supply in perpetuity. They have attracted such **large** and highly capitalized secondary industries as the particleboard factories at Tumut and Oberon, as well as some of the largest sawmills in the State.

The Tumut forests are committed to supplying large volumes of *pinus radiata* for the Australian Newsprint **Mill** at Albury. Much of the timber requirements of these secondary industries takes the form of chips or pulp and it is in this field particularly that opportunities for commission participation have been examined, including the possibility of joining in a consortium to supply woodpulp for a proposed paper mill near Bathurst, which would be drawing its supplies from state forests in the Bathurst forestry district. Honourable members will appreciate that in the scientific management of **such** highly developed forests—which, I should emphasize, have been established **at** great expense to the State—it is desirable to harvest the trees at the most propitious time, whether as thinnings at say age 15 years in order to improve the growth of the stands, or as mature logs when the growth rate curve has reached its zenith and before that rate declines and a less volume of wood is being laid down each year.

Though this is so, it does not follow that local established industry has the necessary capacity to take the volume of timber which the commission would wish to be released, in which case it could be advantageous for the **commission** to invest, either by itself or with an acceptable industry partner, in providing greater **saw-milling** or processing capacity to match the output capability of the **forest**. **The** Government accordingly agreed in principle, some time ago, to the Forestry Commission becoming involved commercially either in joint ventures with private enterprise or on its own for the processing of plantation grown softwood on the understanding that Cabinet's approval must be obtained to individual ventures. Other prospects which have been examined by the Government have included the possible purchase of a sawmill at Tumut which came on to the market during 1979. However, as I said earlier, for various reasons none of the propositions which have so far been examined has come to fruition.

The powers contained in the bill include the power to form corporations, in association with others, to purchase shares and form partnerships, and to participate in the management and activities of companies which the commission forms or in which it acquires an interest. Honourable members should be aware that the Government does not contemplate any immediate and large-scale movement into the field of wood processing and certainly not to the detriment of existing industries. However, this vast resource of growing timber has, as I said, been established at great expense to the State. It requires carefully planned harvesting, utilization and marketing to achieve maximum economic return to the State consistent with the protection of the environment. Though the new powers will extend to native hardwoods also, especially in plantations, the advantages of achieving optimum utilization are most evident in the case of plantation grown softwoods, where the number of trees and volume of wood grown per hectare are greatest over a given period.

The Government takes the view that for the State, having financially and physically brought these plantations into existence, and nurtured, tended and protected them to maturity, to exclude itself from participating in the subsequent harvesting, processing and utilization of the product is an unnecessary and unwarranted restraint on its and the Forestry Commission's powers, especially in view of the commission's statutory objects as set out in section 8A of the Act. The Governments of South Australia, Western Australia, Australia and New Zealand are, or have recently been, involved in commercial sawmilling. The South Australian experience has been one of success, the Government having operated mills for more than seventy years. At present it operates three large sawmills and a wood preservation plant and has recently entered into a joint venture with Softwood Holdings Limited to purchase two sawmills in the Adelaide Hills. In both South Australia and New Zealand the Governments have recently become directly involved in marketing timber products to achieve effective and efficient market penetration.

New South Wales now has almost 140 000 hectares of state forest established under softwood in plantations and new plantings are continuing at the rate of 5 000 hectares a year, the greater part of this commitment being in the Tumut and Bathurst forestry districts with smaller but growing commitments at Bombala, Walcha, Kyogle and Moss Vale. This is indicative of the enormous development that has taken place in forestry in this State in the sixty-five years since the Forestry Commission came into existence. In addition to this forest development, a great deal of research has been undertaken at the insistence of the commission and a valuable contribution to the better understanding and utilization of timber has been made by the commission's wood technology and forest research division. Arising out of this research certain items of equipment and machinery for use in forestry, sawmilling and timber marketing have been developed by the **commission's officers**

Mr Gordon]

and the commission is empowered to patent or take an assignment of such inventions. An example of an invention in this category is the successful timber stress grading machine, which was developed in the 1960's by officers of the commission, and is now manufactured under licence and used in a number of countries.

The legislation extends to empowering the commission to enter into manufacturing of such items or to invest in companies set up to manufacture them. It has been made wide enough to embrace other activities with which the commission would normally be involved under the Act but, as I said earlier, **commercial** manufacturing, construction of factories or investment in such activities would not be undertaken without the prior approval of the Government. For purposes of the commission's new commercial powers, or to enable the commission and an adjoining landowner to make suitable joint use of **desirable** land features and attractions in the public interest, or simply to provide an extension service to a landholder, the legislation will enable the commission to agree to undertake the control and **silvicultural** management of land over which the commission would **otherwise** have no authority. This provision will have special value in relation to timbered or scenic lands adjacent to a state forest, where the owner seeks the commission's assistance in managing it in conjunction with the state forest. Such an arrangement would require the approval of the Minister and would be subject to conditions which are mutually acceptable to both the landholder and the commission.

Finally, certain provisions are included to remove any doubt as to the commission's ability to dispose of and hire out its vehicles, aircraft and equipment in accordance with longstanding practice and to manufacture or adapt or modify such items for certain purposes, especially firefighting. Honourable members may be assured that these provisions are designed simply to clarify the commission's position in such matters in order to place longstanding practices on sound legal bases. I now table additional information for the assistance of honourable members and I commend the **bill** to the House.

Forestry (*Amendment*) **Bill**, 1981

Clause 4 provides that the Forestry Act, 1916 is amended in the manner set forth in Schedules 1 to 3.

Clause 5 validates anything that was previously done by the Commission in relation to disposal or hiring out of its vehicles, aircraft or equipment.

Clause 6 is a "savings" clause inserted primarily to save previously existing regulations.

Schedule 1 (1) updates and clarifies section 7 of the Act which constitutes the Commission and sets out its basic powers.

Schedule 1 (2) (a) and (b) provides that the Commission may sell or **otherwise** dispose of timber or process timber into logs, wood-chips, wood-pulp or sawn, hewn or dressed timber or any other article or substance and sell or otherwise dispose of the same.

Schedule 1 (2) (c) provides that the Commission may construct, purchase or take on lease sawmills, factories or other premises for the processing of wood or manufacturing patented inventions and engage the necessary employees.

Schedule 1 (2) (d) empowers the Commission to acquire or dispose of vehicles, aircraft and equipment for its purposes under the Act and **to** let such items on lease and to adapt or manufacture and sell items for **fire-**fighting and other purposes.

Schedule 1 (2) (f) and (g) extends the Commission's powers to enter into agreements in connection with its new commercial powers.

Schedule 1 (2) (i) empowers the Commission to join with other persons in forming a company or partnership for carrying on an activity **of** the same nature as an activity which the Commission is authorised **to carry** on under the Act, to acquire an interest in a company or partnership **carry-**ing on such an activity and to involve itself in the control or management **of**, and in an activity carried on by, such a company or partnership.

Schedule 1 (2) (k) provides that the Commission may exercise its powers to construct sawmills, factories, etc., and engage the necessary employees, or enter into investment activities, only with the approval of the Minister granted with the concurrence of the Treasurer.

Schedule 1 (2) **(l)** empowers the Commission, with the approval of the Minister, to enter into agreements for the control and silvicultural management of land.

Schedule 1 (3) empowers the Commission to manufacture, or sell or otherwise dispose of articles the subject of an invention or in which the invention is incorporated, and to grant franchises for the sale of **such** articles.

Schedule 2 (2) provides the power for the Commission to **borrow** money.

Schedule 2 (3) makes consequential amendments to the financial sections of the Act.

Schedule 2 (4) inserts a Third Schedule to the Forestry Act to provide the machinery for the obtaining, recording and securing of loans **by** the Commission.

Schedule **3** provides for amendments by way of Statute Law Revision.

Debate adjourned on motion by Mr Fischer.

FARM WATER STORAGES AND BORES SUBSIDIES (AMENDMENT) BILL

Introduction

Motion (by Mr Gordon) agreed to:

That leave be given to bring in a bill for an Act to amend the Farm Water Storages and Bores Subsidies Act, 1973, to enable the prescribed authority within the meaning of that Act to approve certain applications for subsidies toward the cost of works commenced before the applications were made.

Bill presented and read a first time.

Second Reading

Mr GORDON (Murrumbidgee), Minister for Lands, Minister for Forests and Minister for Water Resources [10.1]: I move:

That this bill be now read a second time.

The Farm Water Storages and Bores Subsidies Act came into effect in October 1973 and, by virtue of the Act, assistance has been given to owners and lessees of rural land by way of subsidies in respect of the cost of construction or improvement of water storages and bores. To be eligible, those works must effect an improvement of properties in the interest of primary production. The prescribed authorities under the Act are the Commissioner of the Soil Conservation Service and the Water Resources Commission. An application for a subsidy for a soil conservation storage is made to the Commissioner of the Soil Conservation Service and for a farm water storage or bore, the application is made to the Water Resources Commission. The number of applications approved by the prescribed authorities is approximately 40 960 and the total amount paid is \$12,245,764 representing an average payment of \$299. Of these successful applications, 29 310 were dealt with in the period May 1976 to February 1981. During that latter period the total amount paid was \$9,676,989 representing an average payment of \$330.

On an average, 700 applications are received and processed each month. Of that number, approximately 10 are rejected each month on the grounds of commencement of work prior to the making of the application. Under the existing provisions of the Act an application cannot be approved where a work has been commenced prior to the making of the application. In the administration of the Act it has been found that certain applicants have been denied a subsidy for works. Those works would have been regarded as being both eligible and worth while but were rendered ineligible by the fact that the application was lodged after the works were commenced. The reasons for these late applications varied from ignorance of the Act and the benefit paid thereunder, availability of contractors on short notice and postal delays. Many representations have been received about applicants who have not been paid a subsidy for works which have been rendered ineligible solely because their applications were made after the commencement of the work which was the subject of the application.

Accordingly, under the proposed amendment, the prescribed authority is to be given a further discretionary power in approving applications for a subsidy. By that amendment, an application for a subsidy may be approved even though the work has commenced prior to the making of the application, provided that the application is made within a 6-month period after the commencement of the work. It is considered that a 6-month period will adequately cover the great majority of late applications. However, it may not protect all those who claim lack of knowledge as the reason for the late application. Notwithstanding, an appropriate time period is required otherwise this State could find itself burdened by a build-up of a hidden financial commitment. Also the imposition of an appropriate time limitation assists in lessening the problem of a consideration of the adequacy of the works. The bill has no retrospective effect in that the proposed amendment will apply only to works commenced on and after the date of assent. Therefore, a work commenced prior to the date of enactment and prior to an application being made will not be eligible for subsidy. A work commenced after the date of enactment and within six months of the date of application will be eligible for subsidy. The Water Resources Commission and the Commissioner for the Soil Conservation Service support the proposed amendment as it is considered that it will overcome inequities. I commend the bill.

Debate adjourned on motion by Mr Fischer.

REAL PROPERTY (AMENDMENT) BILL

Introduction

Motion (by Mr Gordon) agreed to:

That leave be given to bring in a bill for an Act to amend the **Real Property Act, 1900**, with respect to the incorporation of covenants **into** dealings relating to land under that Act and the destruction of documents **by** the Registrar-General.

Bill presented and read a first time.

Second Reading

Mr GORDON (Murrumbidgee), Minister for Lands, Minister for Forests and Minister for Water Resources [10.5]: I move:

That this bill now be read a second time.

This bill is designed to facilitate the work of the Registrar General's Office in processing and storing an increasing volume of dealings with land under the provisions of the Real Property Act, 1900. It will achieve this in two ways. First, it will enable the Registrar General, subject to the Archives Act, 1960, to destroy documents regardless of whether such documents evidence a subsisting interest. Where the documents evidence a subsisting interest, it will be necessary for the Registrar General to make a photographic copy of them before destruction takes place. Second, the bill provides for the filing and use of a memorandum to be used in conjunction with other dealings under the Real Property Act. This facility will enable standard clauses **and** provisions in constant use, such as in certain mortgages and leases, to be simply incorporated in subsequent dealings by reference to the distinctive number of the memorandum. An extension of this concept is the further provision in the bill which will enable a renewed lease of land to incorporate the provisions of the original lease in a much shortened form.

These provisions will help the Registrar General to achieve savings in storage space required for Real Property Act dealings, and they will effect savings in the preparation and signing of these documents. This is of considerable practical benefit to the legal profession and to people engaged in conveyancing transactions. I table for incorporation in *Hansard* additional information to assist honourable members in **their** understanding of the proposed amendments.

Real Property (Amendment) Bill, 1981

In 1970, subsections (5) and (6) were added to section 38 of the Real Property Act, 1900. These provided (subject to the Archives Act, 1960) for the destruction of certain documents held by the Registrar General which were not part of the Register. They also provided for destruction of those parts of the Register which did not evidence a subsisting interest.

Since 1970 there has been a culling programme in operation whereby all dealings more than 12 years old are inspected and those dealings which no longer evidence a subsisting interest in land are microfilmed and destroyed. Although worthwhile savings in space have been achieved by this programme, the process has required a great deal of administrative time and effort. In addition, the rate of lodgment of dealings has increased significantly in recent years, thereby offsetting some of the savings made in storage space.

Schedule 1 (3) of the Bill amends section 38 of the Real Property Act, 1900 by the substitution of subsection 6 and the addition of subsections 7 to 10 inclusive. These provisions will enable the Registrar General to destroy all dealings after registration. However, where the dealing evidences a subsisting interest, such as a current mortgage or lease, a transparency (microfilm) must first be made of that instrument. By virtue of the Evidence (Reproductions) Act, 1957, copies of documents reproduced from microfilm are admissible in legal proceedings as if they were the original documents. Section 38 (7) (b) will require the Registrar General to also make a photographic record of certain documents such as caveats, which are not dealings.

In practice all dealings will be microfilmed, thus eliminating any need to cull dealings. Nevertheless the permanent record retained will occupy far less space than that presently required.

The remaining provisions of the Bill are intended to provide for the preparation of documents in an abbreviated form.

Until 1978, dealings lodged for registration had to set out in full all the terms and conditions of the agreement between the parties. In the case of many of these dealings, such as mortgages and leases, most of the terms and conditions of the agreement followed a standard form common to many other agreements entered into by the same mortgagee or lessor. The repetition of these terms and conditions in full in every dealing required the use of documents running into many pages. The result was increased time and cost in preparation, signing and storage of these documents.

A scheme, introduced on 31st August, 1978, enabled a single document (called a memorandum) to be prepared containing all the standard covenants and conditions which would otherwise be repeated in a number of documents. This memorandum is then filed with the Registrar General and given a dealing number. The covenants and conditions may then be incorporated in subsequent mortgages, leases or other dealings by a clause referring to the memorandum.

The use of memoranda has enabled the dealing forms to be simplified and abbreviated and has already saved the use of substantial quantities of high quality paper. However, various doubts have been expressed as to the regularity of the practice, particularly having regard to those provisions of the Real Property Act, 1900 which refer to covenants and conditions "set forth and specified", "contained or "expressed" in a dealing. The purpose of the new legislation is to ratify the practice and, for this reason, the memorandum provisions have been deemed to commence on 31st August, 1978.

The amendments to section 36 are simply to provide for the acceptance and numbering by the Registrar General of a memorandum, provided it is in a form complying with the provisions of the Act. Section 39 has been amended to clarify the power to reject a memorandum which does not comply with other provisions of the Act.

A new section 80A has been added to the Act by this Bill. Subsections (1) and (2) thereof are definitions and machinery clauses.

By section 80A (3) a memorandum is to be part of the Register, but only for the purposes of section 96B. This will ensure that the memorandum will be available for public inspection.

Section 80A (4) is the operative provision in **relation** to memoranda, while subsection (5) will enable covenants contained in registered leases to be incorporated in a subsequent lease of the same land by a simple incorporation clause. Leases often contain an option for renewal or for a new lease upon the same terms as the original lease. It will now be possible to use a one sheet form of lease to register these leases, rather than to have to set out exactly the same provision already contained in the original lease in numerous additional sheets.

The provisions contained in both memoranda and leases may be appropriately varied when incorporated in subsequent dealings.

Debate adjourned on motion by Mr Osborne.

ADJOURNMENT

Sewage Pollution

Mr GORDON (Murrumbidgee), Minister for Lands, Minister for Forests and Minister for Water Resources[10.10]: I move:

That this House do now adjourn.

Mrs FOOT (Vaucluse) [10.10]: I wish to speak on an urgent matter affecting the health of constituents in my electorate, which includes Bondi Beach, **as** well as the health of all the residents of Sydney. We have witnessed a week-old strike by twenty key men at Bondi, **Malabar** and North **Head** sewage treatment works. So far this **week** 5 000 million litres of raw sewage has been pumped into the sea. The on-shore **winds** are blowing the sewage on to the beaches. **I** can understand ~~the~~ fear of the Wran Labor Government that if 350 members of the Water and Sewerage Employees Union get the shift penalty rates they are demanding, there will be a flow-on, with crippling demands by **shift** workers in other government departments. The fact **that** the Government's sewage disposal plants are so inadequate and ten years from completion is the reason that these employees are holding all the cards and will continue to hold the Government to ransom. At the **same** time our beaches will continue to be the filthy places that they have so frequently become of recent years.

For some two and a half years I have been most concerned that the **short-** and long-term solutions have not been found to the sewage pollution problems **on** Sydney's beaches. I have been astounded by the light-hearted and evasive manner in which the Deputy Premier and non-Minister for Public Works and Minister for **Ports** has dealt with my questions with and without notice, not to mention his total "cop-out" on news media allegations that I have made in the past month or so. Since the end of January, when the faecal **coliform** readings on most of Sydney's beaches were extremely high, I have received reasonable news media exposure on the subject. The Deputy Premier has **not** once replied in the daily newspapers, on television, on the radio or in the local newspapers circulating in the eastern suburbs: Mr Walder, the president of the Metropolitan Water Sewerage and Drainage Board and the board's officials have deputized for him.

On each occasion that I have attacked Government policy the same defensive jargon has been put forward by the water board officials. I take this opportunity to express my great exception to Mr Walder's remarks that I have talked utter nonsense, that the departmental briefing that he gave Opposition members, including the honourable member for Pittwater, was lost upon me, that I was not capable of understanding the water board's submarine **outfall** plans, and that I had no business to question the findings and plans of these experts. I should like to emphasize to the House, to the

Deputy Premier, who is not present, and to Mr Walder that elected representatives and the, directors of major companies, including multinational companies, are usually not specialists in one particular area—let alone in twenty areas. Usually they are people who are elected or chosen because of their broad knowledge and their sound specialist sense of judgment. I suggest that Mr Walder's narrow **perception** of this concept is much astray. I challenge Mr Walder to make the same assertions to me, and more particularly to the honourable member for Pittwater, who has locked horns with a member of the water board on the engineering complexities of the outfalls.

The time has come for the Opposition to force the Government to do these three things. Many times I have raised them by way of questions on notice and without notice, and in the newspapers. First, the Government has an obligation to implement essential services legislation so that strikes such as ~~the~~ current water board dispute can be **eliminated** and the health of those citizens who use the Sydney beaches preserved. I disagree completely with the finding of the **water board** that there is no medical evidence of ill-health. Many people have informed me that their ears have been affected and that they have suffered all sorts of illnesses. Does the **Government** want an outbreak of hepatitis before Mr Walder and the water board will concede that a medical danger exists? Further, the water board and the Deputy Premier have a grave responsibility to have sewage treated to a secondary standard, **as** is done in Melbourne, Adelaide, Darwin, **Perth** and **Brisbane**, which are the other major seaport capitals in Australia. My suggestion that this be done was referred to by Mr Walder as quaint.

Yesterday the honourable member for Pittwater detailed in this Parliament the possibility of Commonwealth Industrial Gases Limited introducing oxygen technology for sewage treatment. This proposal was submitted to the State Pollution Control Commission in March 1980. It stayed under wraps; and so far nothing has been done to examine the proposal to clean up the **Malabar** outlet which would cost only \$2.7 million by the use of in-sewer treatment to a standard of secondary treated **effluent**. This could be completed in two years. As an experiment, \$2.7 million is a small cost, particularly when the Government has money running out of its ears from gambling and other sources of revenue. It is a remarkably small amount when compared with the estimated \$100 million for the Bondi, **Malabar** and North Head outfalls, a sum that will probably escalate during the few **years** before the work is completed.

I put the Government, and particularly the Deputy Premier, on notice that I shall continue this battle right up to the State election. I ask the Minister for Lands, Minister for Forests and Minister for Water Resources to refer this matter to the Deputy Premier. I remind the Government that it holds eleven seats south of the Harbour Bridge and that recently many erstwhile Labor voters from those electorates have been in touch with me at my electorate **office** offering support and encouragement in my efforts to resolve the sewage pollution problem on our beaches. Government supporters may be aware that the day of single issue politics has come. **The** problem of sewage on beaches, which is endangering the health of residents and their children, is a far more pressing single issue than many other matters brought before the Parliament. I shall continue to refute Mr Walder's pompous put-downs and also the misinformed headlines in newspapers such as, "Sewage—Rosemary puts her foot in it".

Mr GORDON (**Murrumbidgee**), Minister for Lands, Minister for Forests and Minister for Water Resources [10.15], in reply: As requested by the honourable member for Vacluse, I shall refer the matters that she has raised to the Deputy Premier, Minister for Public Works and Minister for Ports for his consideration.

In the meantime I inform the House of an order made by Mr Commissioner **Varnum** to employees of the **Metropolitan** Water Sewerage and Drainage Board which was in the following terms:

Item 1.

Members of the Water and Sewerage Employees Union (both Salaried and Wages Division) and the Professional Officers **Association** of N.S.W. who are presently on strike will resume work at the beginning of their next normal rostered shift and will continue to work in accordance with their award and the reasonable requirement of the employer.

Item 2.

The Executive of the Union and the Officials of the Unions **will** take all reasonable steps to ensure the terms of Paragraph 1 are adhered to.

Item 3.

Within 24 hours of resumption of work the parties will confer in an endeavour to **resolve** all outstanding problems associated with this issue.

Item 4.

This order will take effect forthwith.

Mr SPEAKER: **Order!** The question is, That this House do now adjourn,

Mr Caterson: Mr **Speaker**—

Mr SPEAKER: **Order!** The Minister who moved the adjournment motion has **replied** to the debate.

Mr Cameron: On a point of order. The standing orders provide for fifteen minutes of debate on the adjournment motion. If those **fifteen** minutes have not expired when the Minister has concluded his remarks, any other member is entitled to speak in the remaining time. I submit that the honourable member for The Hills is in order in seeking the call to speak for the unexpired portion of the fifteen minutes allocated for the adjournment debate.

Mr SPEAKER: **Order!** I am disappointed that the honourable member for Northcott is not aware of the standing orders. As the Minister who moved the motion for the adjournment has replied to the debate, the debate is concluded. If a Minister other than the Minister who spoke in the debate had moved the motion for the **adjournment**, the honourable member for The Hills would have been entitled to **speak**.

Motion agreed to.

House adjourned at **10.20** p.m.

QUESTIONS UPON NOTICE

The following questions upon notice and answers were circulated in *Questions and Answers* this day.

WORD PROCESSING SYSTEM

Mr MOORE asked the Minister for Mineral Resources and Minister for Technology—

(1) Has a **word** processing system **or** systems **of** any description **been** purchased for **his** office, or **within the** department, for **his** use?

(2) If so (a) what system has been purchased; (b) when was it purchased; and (c) to what use it is being put?

(3) If not, are any investigations being undertaken in this regard?

Answer—

(1) No.

(3) Yes.

LUNA PARK

Mr McDONALD asked the Minister for Police and Minister for Services—

Following the Luna Park fire in May last year:

(1) Has the Board of Fire Commissioners carefully studied the remaining structures and improvements on the Luna Park site from a fire safety point of view?

(2) Do these structures pass all present standards including, in particular, Coney Island and the Big Dipper?

(3) If not, what improvements would be required to bring these structures into compliance with present standards?

Answer—

(1) No.

(2) The tender for the lease of the park has now been let to Harbourside Amusement Park Pty Ltd and conditions will be included in the lease to ensure that any structures on the site conform with all relevant statutory requirements, including those related to fire safety.

(3) Refer (2) above.

MILSONS POINT AMUSEMENT PARK

Mr McDONALD asked the Minister for Police and Minister for Services—

Following the Government's issuing of revised tender information last year for a lease of certain lands situated at Lavender Bay, Milsons Point, for an amusement park:

(1) How many tenders were received at the close of tenders on Friday, 23 November, 1979, and who were the tenderers?

Answer—

Six tenders were received at the close of tenders on Friday, 23rd November, 1979. The tenderers were as follows:

Alpat Holdings Pty Ltd.

Camingo Pty Ltd.

Lenoku Pty Ltd.

Luna Park (N.S.W.) Pty Ltd.

National Mutual Life Association of Aust Ltd and Australian Leisure Enterprises Pty Ltd.

Messrs W. J. Parrott & S. W. Durkin.

GOVERNMENT ADVERTISING AND PUBLIC RELATIONS

Mr MASON asked the Premier and Treasurer—

What was the cost of

- (a) publications
- (b) advertising and
- (c) public relations

by departments and statutory authorities under his current ministerial control for the years ending June 30, 1976 to June 30, 1980, inclusive?

Answer—

(a) *Publications*

The information required to answer this question is not readily available and its collation would require considerable public expense. In the circumstances it is not practicable to provide the information sought.

(b) *Advertising*

The cost of advertising for those years was:

1975–76 — \$591,853.

1976–77 — \$675,682.

1977–78 — \$869,855.

1978–79 — \$1,066,354.

1979–80 — \$1,021,797.

The majority of these costs were incurred in classified advertising for recruitment to public sector positions within my administration. A significant proportion was incurred in respect of advertising required by various statutory provisions, including Government tenders, Treasury notices, Terms of Reference of Government Inquiries and Royal Commissions.

The balance related to the dissemination of information about Government services available, including the Ethnic Affairs Commission, the Community Interpreting and Information Service, the Anti-Discrimination Board, and cultural and community programmes and services.

(c) *Public Relations*

The information is not readily available and its collation would require considerable public expense. In the circumstances, it is not practicable to provide the information sought.

GOVERNMENT ADVERTISING AND PUBLIC RELATIONS

Mr MASON asked the Minister for Mineral Resources and Minister for Technology—

What was the cost of

- (a) publications

- (b) advertising and
- (c) public relations

by departments and statutory authorities under his current ministerial **control** for the years ending June 30, 1976, to June 30, 1980, inclusive?

Answer—

Department of Mineral Resources.

	(a) Publications	(b) Advertising	(c) Public Relations	Total Year
	\$	\$	\$	\$
1975-76	290,343	15,371	3,815	309,529
76-77	163,596	15,847	5,213	184,656
77-78	81,942	19,783	31,671	133,396
*78-79	114,672	28,467	26,526	169,665
*79-80	159,150	55,940	44,907	259,997

* Contained in these figures is the expenditure incurred by the Development Division which came under the Minister's control between October, 1978, until February, 1980.

Joint Coal Board.

	(a) Publications	(b) Advertising	(c) Public Relations	Total Year
	\$	\$	\$	\$
1975-76	23,365	2,706	7,309	33,380
76-77	39,987	4,106	8,130	52,223
77-78	27,547	5,813	2,835	36,195
78-79	25,408	3,405	26	28,839
79-80	33,011	7,717	1,273	42,001

N.S.W. Science and Technology Council.

Nil expenditure from 1 March 1980 to 30 June 1980.

Technology Research Unit.

Nil expenditure from 1 March 1980 to 30 June 1980.

WAGGA WAGGA ELECTORATE

Mr **SCHIPP** asked the Minister for Police and **Minister** for Services—

(1) What was the total (a) budgeted and (b) actual expenditure for (c) non-capital purposes and (d) capital works in the Wagga Wagga electorate by Departments, Statutory Instrumentalities or Authorities under his control for each of the years 1976-77 to 1979-80, inclusive?

(2) What are the levels of projected expenditure for 1980-81?

Answer—

In response to the question asked by the Honourable Member, the following information is furnished so far as Departments, Statutory Instrumentalities or Authorities under my control are concerned.

Police Department

Police Department expenditure is not itemized on an electorate basis and much of the information sought cannot be obtained without extensive research and substantial interruption to the normal duties of Departmental staff.

Expenditure for Police buildings and maintenance forms part of the Public Works Department Public Buildings Programme and its maintenance programme expenditures.

Annual expenditure in the electorate in relation to buildings and maintenance have been:

1976-77—\$15,535.

1977-78—\$219,276.

1978-79—\$174,028.

1979-80—\$12,350.

Projected expenditure in **1980-81** is **\$4,000.**

Salary payments have been estimated as follows:

1976-77—\$748,600.

1977-78—\$801,400.

1978-79—\$876,200.

1979-80—\$1,057,800.

State Emergency Services

So far as the office of the Director of State Emergency Services is concerned it is not possible to indicate expenditure related solely to the Wagga Wagga Electorate as this electorate represents a small part of the State Emergency Services East-West Murrumbidgee Division. However, particular allocations to the Division are as indicated in the table below. There has been no capital expenditure incurred by State Emergency Services in respect of the Electorate.

		1976-77	1977-78	1978-79	1979-80	Projected 1980-81
Travelling ..	..	663.31	935.93	1,046.75	1,210.37	1,150.00
Motor Vehicles ..	..	351.10	301.78	206.06	188.05	500.00
Stores ..	..	211.78	87.60	44.97	81.80	200.00
Training ..	..	1,302.72	1,156.42	1,075.48	1,114.54	950.00
Totals ..	..	2,528.91	2,481.73	2,373.26	2,594.76	2,800.00

Bush Fires Branch, Department of Services

Details of allocations and actual expenditure from the N.S.W. Bush Fire Fighting Fund to Local Government Councils in the Wagga Wagga Electorate during the years in question are set out in the table below.

The Bush Fire Fighting Fund is determined each year having regard to estimates submitted by the **147** Local Government Councils participating in the Fund. Allocations are made on the basis of total distribution of the Fund each year.

Because of the inability of manufacturers and suppliers to deliver plant/stock items, and for a variety of other reasons, funds allocated to individual Councils are often not expended within the financial year of allocation. The unexpended

portion of Council's allocation is held to the credit of Council until such time as the expenditure is incurred. Thus, variation between amounts allocated and amounts actually expended each year inevitably occurs.

Generally, expenditure is of a non-capital nature being related to the purchase and maintenance of Bush Fire Fighting Equipment. The only possible exception to this rule would be expenditure on the construction of brigade stations, but expenditure on these represents a subsidy only towards construction costs. **Only** two (2) brigade stations have been constructed in the Wagga Wagga Electorate during the periods in question and subsidies paid towards construction costs totalled \$9,860.00, as follows—\$2,700.00 to Mitchell Shire in 1976–77 **and** \$7,160.00 to Turnut Shire in 1978–79. These figures are included in the total actual expenditure shown in respect of these two councils for the years in question.

Shire Council	76-77 Allocation	76-77 Actual	77-78 Allocation	77-78 Actual	78-79 Allocation	78-79 Actual	79-80 Allocation	79-80 Actual	80-81 Allocation
	\$	\$	\$	\$	\$	\$	\$	\$	\$
Illabo ...	38,699	42,281	49,042	55,534	33,004	26,499	50,785	23,105	48,694
Kyeamba	37,584	33,412	41,549	44,244	36,181	12,857	43,611	15,639	39,160
Mitchell	34,377	37,738	36,462	39,385	30,781	26,911	45,817	28,590	68,003
Turnut	19,071	16,488	27,294	32,986	34,743	21,179	33,954	23,189	38,259

Board of Fire Commissioners

As the Board of Fire Commissioners' financial administration relates to a calendar year, the details set out below have been supplied on this basis.

					(1) (a) Budgeted (Not incl. Capital Works) \$	(b) Actual Expenditure (c) Non-capital purposes \$	(d) capital works \$
1976	..	..	..	..	42,016.00	67,574.00	Nil
1977	..	..	..	..	74,688.00	64,378.00	Nil
1978	..	..	..	..	99,680.00	99,263.00	36,000.00
1979	..	..	..	..	95,744.00	175,066.00	306,599.00
1980	..	..	..	..	612,928.00	446,779.00	184,000.00

(2) \$550,880.00.

The marked increase in actual expenditure recorded during 1979 was due to a substantial improvement in fire protection being effected in the Wagga Wagga Fire District. Non-capital expenditure includes the salaries of additional permanent staff appointed to Wagga Wagga Fire Station, whereas capital works expenditure includes accommodation for such staff, additional fire fighting appliances and re-payments towards the cost of the new fire station in Wagga Wagga.

These matters were taken into account when the Board framed its budget for 1980 and again for 1981, and are the main reason why projected expenditure for these years is higher than previously.

Government Printing Office

So far as the Government Printing Office is concerned, details of expenditure in the Wagga Wagga Electorate during the years in question relate solely to the operations of its Branch Office in the city of Wagga Wagga. The Branch

Office provides document reproduction facilities for Government Departments and Instrumentalities in the Wagga Wagga area and took over responsibility for providing this service from the Department of Public Works on 28 November, 1977. Under the heading "Budget Allocation" it is indicated that some **figures** are not readily available. Because of difficulties experienced when new accounting equipment was acquired in mid 1978, certain existing data was not transferred to the then new accounting records. A search of old records failed to readily locate that information. Under the heading "Actual Expenditure" figures shown for the period 28 November, 1977 to 30 June, 1978 are estimates only, because prior to the introduction of the new accounting equipment in 1978, records of expenditure were not maintained in respect of individual Branch Offices, only in respect of total expenditure for all Branch Offices. Accordingly, the following information is provided:

(1) (a)	Budgeted	(b) Actual Expenditure	
		(c) Non-capital purposes	(d) capital works
	\$	\$	\$
28-11-77 - 30-6-78	Not readily available.	27,243.00	12,062.00
1978-79	Not readily available.	50,754.00	Nil
1979-80	65,364.00	49,715.15	10,023.00
(2) \$62,554.00.			

It should be noted that capital expenditure has been for the purchase of equipment and machinery. While it can be said that moneys are expended in the Wagga Wagga Electorate by the Government Printing Office in other ways, namely, on purchases of equipment, materials and services (including printing jobs serviced by private contractors) the collection of this information would involve a manual search of all purchasing records to identify suppliers **and** manufacturers located in the Wagga Wagga Electorate. Such a search would in any case, probably not disclose all relevant information because there may be cases where records would show the name of an agent located in say, Sydney and not the name of the manufacturer located elsewhere in say, Wagga Wagga, and vice versa.

DISABLED PERSONS

Mrs FOOT asked the Minister for Industrial Development **and** Minister for **Decentralisation—**

(a) How many disabled persons are employed and (b) what has the Minister for Agriculture done to improve their level of employment, in the Department of Agriculture or statutory instrumentalities under the control of the Minister for Agriculture?

Answer—

Department of Agriculture

(a) There are 22 officers employed by the Department who have some form of disability.

- (b) Generally, where possible the duties of the officers are adjusted in order that employment can be maintained so that they are able to cope **with** their level and degree of disability. Where practical, special **accommodation**, facilities and transport arrangements are organized to assist them in undertaking their duties.

N.S.W. Fish Marketing Authority

- (a) Nil.
- (b) Not applicable.

Soil Conservation

- (a) Five.
- (b) On the 1 May, 1980, the Minister for Youth and Community Services wrote to the Minister advising that 1981 has been declared International Year of Disabled Persons. The theme of the year is "full participation and equality".
This service proposes to introduce a "Work experience" program for disabled persons to further the intentions of International Year of **Dis**abled Persons. Subject to funding and that special services or facilities are not required, the service has a wide range of positions in which disabled persons could gain work experience (i.e., clerical positions at Head Office and country offices, Drafting Branch, Research Centre Nurseries etc.).

Grain Elevators Board

- (a) Nil.
- (b) Not applicable.

Dairy Industry Marketing Authority

- (a) Nil.
- (b) Not applicable.

Homebush Abattoir Corporation

- (a) The corporation at present employs twenty-five (25) employees who could be classified as being disabled to some extent. Of this number twenty (20) employees were injured in the course of their employment and are now no longer able to perform their pre-injury tasks. The main example would relate to slaughtermen who now are only capable of performing selected labouring tasks and in all cases the corporation is complying with the requirements of the Workers' Compensation Act, 1926, as amended, in respect of this group.
The other five (5) employees have suffered injuries outside the course of their employment and a similar policy has been adopted by the corporation with these employees.

- (b) In all cases the corporation constantly reviews this group with the view of improving their level of employment depending upon the degree of disability. A good example of this is a meatworker who lost three fingers on one hand and who became a clerk and was eventually appointed to the salaried staff as a supervisor.

N.S.W. Meat Industry Authority

- (a) Nil.
(b) Not applicable.

N.S.W. State Fisheries

- (a) N.S.W. State Fisheries employs some people who have physical disabilities, but the disabilities are not of a type which detracts from performing duties at a normal level. Because it is irrelevant to know details of these cases and because of privacy aspects affecting individuals, no attempt is made to collect statistics.

In relation to cases of severe disability (e.g., totally blind or paraplegia) no such persons are employed.

- (b) No specific measures have been taken to improve the level of employment of severely disabled persons, but any disabled applicant for a position would be sympathetically considered within the framework of the Public Service Act.

However, the bulk of positions in N.S.W. State Fisheries are unsuitable for disabled persons because of the nature of the work and, in particular, the need to carry out field duties associated with law enforcement or scientific research.

Sydney Farm Produce Market Authority

- (a) Nil.
(b) Not applicable.

FREEDOM OF INFORMATION BILL

Mr HATTON asked the Premier and Treasurer—

- (1) Does the Government plan to introduce a freedom of information bill?
(2) If so, when?

Answer—

The Government is committed as a matter of principle to policies aimed at providing reasonable access to Government information and is continuing to monitor developments in this area.

These include Commonwealth consideration of the question of freedom of information legislation which has been proceeding in one form or another since 1978.

Also, it is anticipated that Professor Wilenski, Commissioner of the Review of N.S.W. Government Administration, will be making further reference to freedom of information in the Final Report of the Review, currently expected by the Government about mid-1981.

The whole question will then be considered in the light of the further information available to the Government from these and other relevant sources.

GOVERNMENT OVERSEA RENTAL SUBSIDIES

Mr MOORE **asked** the Premier and Treasurer—

With respect to current weekly rental subsidies for officers of overseas establishments run by the Government, what are the terms of the current Commonwealth determinations relating to overseas service that determine the rental contribution to be made by the officer receiving the rental subsidy?

Answer—

Section I, Part 3 of the Determinations Relating to Overseas Service provides that officers posted overseas will occupy residential accommodation which is either:

- (a) obtained through private leasing arrangements, or
- (b) owned or leased by the Government.

The section further provides, as do the individual Post Schedules for Britain, Canada and the United States of America, that the Government will meet the rental cost of approved residential accommodation subject to the contribution by the officer of the appropriate amount indicated in the scale of rental contributions set out in Schedule 3/I/B.

The rental contribution of an officer is governed by salary and marital status.

OIL INDUSTRY DISPUTES

Mr MOORE **asked** the Minister for Industrial Relations and Minister for **Energy—**

As the valuable and necessary social services performed by ministers of religion to the community are severely curtailed during disruption to petrol supplies, because of prior industrial or other needs, will he have the committee allocating supplies during such times examine the need to include ministers of religion in **definitions** of essential services?

Answer—

In my dual administration of the Industrial Relations and Energy portfolios, I have been concerned to remedy the conditions which trigger disputes in the oil industry whilst at the same time ensuring that the machinery to handle emergencies is adequate and equitable. Although considerable success has been achieved in both areas, the last incident involving operators at Kurnell highlights the problems caused by the structure of the industry itself.

The Energy Authority of New South Wales is responsible to me on these occasions for the orderly introduction of emergency measures. Energy Authority officers are aware that ministers of all religious denominations must officiate at

burials and give comfort to the bereaved and the critically ill, functions which directly impinge on the safety and health of the community. Every effort is made to ensure that emergency procedures recognise this fact. Whilst wishing to avoid any commitment which could compromise its ability to respond flexibly to a variety of industrial situations, the Authority can guarantee a favourable response by Police authorities if approached for a petrol voucher by any minister with appropriate evidence of his specific urgent need for fuel.

SMALLS ROAD, RYDE

Mr CAVALIER asked the Minister for Local Government and **Minister for Roads—**

- (1) Has the Department of Main Roads conducted a **traffic** count on Smalls Road, Ryde?
- (2) If so, what has been the count for the past three years?
- (3) Are measures in **traffic** management contemplated to **minimize through-**traffic in this residential area?

Answer—

(1) No. However, as part of an investigation by Ryde Council Traffic Committee to consider a request for the closure of Smalls Road to through traffic, it was observed that traffic volumes were not heavy.

(2) Not applicable.

(3) The Committee did not support the closure of Smalls Road in view of the following:

"T" junctions with existing "Give Way" signs at both ends of Smalls Road are considered adequate to control present traffic needs.

Conditions in Smalls Road are comparable to those in other nearby streets which connect arterial roads in this area. The closure of Smalls Road would force traffic using this route to other surrounding streets.

The closure would also seriously restrict bus movements and emergency services to and from North Ryde High School.

Nevertheless, Ryde Municipal Council has resolved to undertake a comprehensive traffic study in the municipality and the problems in and around Smalls Road will be considered in conjunction with that study.

MAITLAND GAOL

Mr HEALEY asked the **Minister** for Corrective Services—

- (1) Did he deliberately mislead the House recently when he said that Mr Penning was appointed by a recommendation from the head of the Department of Corrective Services to the Public Service Board?
- (2) Does the correct procedure require the recommendation of the head of the Department of Corrective Services to be endorsed by him and approved by the Executive Council?
- (3) Which Minister endorsed the recommendation to the Executive Council?

Answer—

(1) No. On 5 September, the Acting Chairman of the Corrective Services Commission forwarded by letter to the Public Service Board a **recommendation** that the appointment of Mr A. Penning to the position of Superintendent, Maitland Gaol be confirmed and that notification to this effect be placed in the Public Service Notices.

(2) The procedure to appoint an officer to a position in the Public Service requires that following confirmation by the Public Service Board, notice of the appointment is published in the Public Service Notices. Only after notice of the appointment is published and the time during which appeals may be lodged has elapsed, is a recommendation signed by the Department Head and the Minister, referred to the Executive Council.

(3) Mr Penning's appointment has not been referred to the Executive Council as notice of his appointment has not yet been published in the Public Service Notices.

PUBLIC SERVICE APPOINTMENTS

Mr MOORE **asked** the Minister for Industrial Development and **Minister** for Decentralisation—

(1) What appointments have been made to the staff of statutory corporations, Government instrumentalities, Departments or Authorities under his control, including his personal staff, from former officers (either permanent or temporary) of the South Australian Public Service, since the defeat of the Corcoran Government?

(2) What is (a) the name of each officer, (b) the position occupied, (c) the salary scale paid and (d) the qualifications for the position?

(3) What position was occupied by each such officer in South Australia, together with the comparable details of salary scale?

Answer—

(1) No appointments have been made.

(2) See answer to (1).

(3) See answer to (1).

PUBLIC SERVICE APPOINTMENTS

Mr MOORE **asked** the Minister for Police and Minister for Services—

(1) What appointments have been made to the staff of statutory corporations, Government instrumentalities, Departments or Authorities under his control, including his personal staff, from former officers (either permanent or temporary) of the South Australian Public Service, since the defeat of the Corcoran Government?

(2) What is (a) the name of each such officer, (b) the position occupied, (c) the salary scale paid and (d) the qualifications for the position?

(3) What position was occupied by each such officer in South Australia, together with the comparable details of salary scale?

Answer—

(1) **Nil**.

(2) Refer (1) above.

(3) Refer (1) above.

PUBLIC SERVICE APPOINTMENTS

Mr MOORE asked the Minister for **Industrial** Development and **Minister** for Decentralisation—

(1) What appointments have been made to the staff of statutory corporations, Government instrumentalities, the Department or Authorities under the control of the Minister for Agriculture, including his personal staff, from former officers (either permanent or temporary) of the South Australian Public Service, since the defeat of the Corcoran Government?

(2) What is (a) the name of each such officer, (b) the position occupied, (c) the salary scale paid and (d) the qualifications for the position?

(3) What position was occupied by each such officer in South Australia, together with the comparable details of salary scale?

Answer—

Returns from the Grain Elevators Board of N.S.W., the Dairy Industry Marketing Authority, the Meat Industry Authority, the **Homebush** Abattoir Corporation, the Sydney Farm Produce Market Authority, N.S.W. Fish Marketing Authority, Soil Conservation Service of N.S.W., N.S.W. State Fisheries and the Department of Agriculture N.S.W. indicate that no former officers of the South Australian Public Service have been appointed to any of these bodies since the defeat of the Corcoran Government.

However, this information is not conclusive as an exhaustive check of all personnel records has not been undertaken. This is mainly due to the **difficulty** involved in checking such a large number of records which are located in numerous metropolitan and country offices.

PUBLIC SERVICE MOBILITY OF EMPLOYMENT

Mr MAHER asked the Premier and **Treasurer**—

(1) Was action been taken on the question of mobility of employment within the Government administration, since a Working Party was established to investigate the free movement of employees between the Public Service and Statutory Authorities?

(2) Who are the members of the Working Party?

(3) When did the Working Party hold its first and subsequent meetings?

(4) When, and in what circumstances, will non-academic employees of Colleges of Advanced Education be allowed to transfer to the Public Service?

Answer—

(1) Yes. The subject Working Party, established pursuant to the recommendation of the Review of New South Wales Government Administration for investigation of the scope for greater staff mobility within the State public sector, has since reported and this Report was tabled by the Premier in 1979.

Since then the Report's findings have been the subject of Ministerial consideration as to feasibility of implementation by employer authorities, and of consultation with employee bodies—in particular the Combined Public Service Unions and the Labor Council of New South Wales.

(2) Members of the Working Party were:

Mr R. White (Chairman), Office of the Public Service Board.

Mr B. Moore (alternate member—Ms H. Carpenter), Review of N.S.W. Government Administration.

Mr G. B. Hammond (alternate member—Mr M. Engleheart), Combined Public Service Unions.

Mr R. J. Hunt (alternate member—Mr K. McDonell), Combined Public Service Unions.

Mr D. Johns (alternate member—Mr W. J. M. McLatchie), Public Transport Commission of N.S.W.

Mr D. A. Reid, Metropolitan Water, Sewerage and Drainage Board.

Mr E. A. Turner (alternate member—Mr D. Williams), Department of Main Roads.

Mr P. Worthington, Maritime Services Board of N.S.W.

Mr N. Memmott (alternate member—Mr H. G. Wruck), Electricity Commission of N.S.W.

Mr G. W. Baldwin (Secretary), Office of the Public Service Board.

During the course of its deliberations, the following member was added to the Working Party:

Mr L. E. Nicholas, Health Commission of New South Wales.

(3) 1st August, 1978 (First Meeting)

5th September, 1978
 15th September, 1978
 22nd September, 1978
 27th September, 1978
 5th October, 1978
 13th October, 1978
 25th October, 1978
 27th October, 1978
 3rd November, 1978
 15th November, 1978
 23rd November, 1978
 30th November, 1978
 4th December, 1978
 6th December, 1978
 8th December, 1978
 19th December, 1978

(4) The opportunity for free staff movement between Colleges of Advanced Education, the Public Service and other Government Authorities, in much the same way as presently occurs between Departments of the Public Service, remains dependent upon mutually acceptable conditions for staff mobility being worked out with sufficient organizational coverage to enable introduction of a viable Mobility Scheme.

A number of complex issues, including ones related to uniformity of superannuation cover, promotion and appeals criteria and leave conditions remain to be resolved as a prelude to any such Scheme.

The Government is continuing to examine options for further progressing the matter, but it should be appreciated that the complexity of the issues involved, combined with strong union objections in certain respects appear substantially to limit the scope for further progress at this time.

UNEMPLOYED PERSONS

Mr MCILWAINE asked the Minister for Local Government and Minister for Roads—

(1) Have the applications of Ryde Municipal Council and Parramatta City Council for Government assistance in employment-generating schemes been successful?

(2) If so,

- (a) what is the allocation for each Council; and
- (b) how many people will each Council employ?

Answer—

(1) Yes, Ryde Municipal and Parramatta City Councils both successfully applied for financial assistance under the Government's Special Council Employment Scheme for Young People.

This Scheme was introduced in the 1979–80 financial year and was financed by the Government to the extent of \$5 million which, it is anticipated, will be fully expended by 30 June, 1981.

(2) (a) Ryde Municipal Council applied for \$118,750 and was granted \$35,000.

Parramatta City Council applied for \$200,000 and was granted \$105,000.

The grant distribution to individual councils was determined, within the limit of available funds, on the basis of unemployed youths in each local government area and on the assessed benefit to be obtained by the community from the projects to be undertaken by the Councils concerned.

(b) Both Councils referred to in the Question have completed their approved projects. Ryde Municipal Council employed 10 people who in total worked 175 man-weeks. Parramatta City Council employed 29 people who in total worked 511 man-weeks.

POLICE RADAR UNITS

Mr ROBB asked the Minister for Police and Minister for **Services**—

- (1) Will police radar units be used in Miranda electorate, mainly at locations where (a) people blatantly exceed the speed limit, and (b) such speed represents a danger to other road-users?
- (2) Has the new KR-11 radar equipment been in use in Sutherland Shire?
- (3) Is the Highway Patrol's **KR-11** radar equipment proving effective and reliable?
- (4) Has that equipment been modified to suit New South **Wales** conditions?
- (5) How regularly is the function and accuracy of the KR-11 equipment checked?
- (6) What has been the rate of success in reducing speeding in Sutherland Shire, since the introduction of radar equipment?

Answer—

(1) Radar speed detection units are used in the Miranda Electorate at locations which have bad accident histories and where vehicles travel at high speed representing a danger to road-users.

(2) **Yes.**

(3) Yes.

(4) Yes. Modifications have been carried out by the manufacturer to meet specifications set out by the Police Department. Further modifications have been carried out by Police Technical Personnel to suit local conditions and these modifications have been endorsed and approved by the manufacturer.

(5) The KR-11 functions and accuracy are checked by trained Police operators at the commencement of a tour of duty, at the completion of that duty and at hourly intervals during that duty. Further scientific checks are carried out at 2-monthly intervals at the Police Microwave Laboratory which has, for frequency measurement purposes, reference to the atomic clock at the CSIRO.

(6) It is not possible to indicate the rate of success in reducing speeding in the Sutherland Shire because of a number of variables. However, in 1970, there were 43 road fatalities in the Sutherland Shire compared with 25 in 1980.

GRANTS FOR SENIOR CITIZENS CENTRES

Mr ROBB asked the Minister for Local Government and Minister for **Roads**—

With what provisions of the Local Government Act must the Miranda Senior Citizens Club comply in order to be eligible for a Senior Citizens Centre Grant?

Answer—

Grants for senior citizens' centres are not given under the provisions of the Local Government Act. In 1969 the Commonwealth Government introduced legislation, known as the States Grants (Home Care) Act, 1969, included in which was provision for councils to receive a subsidy of one-third of the capital

cost of establishing or extending a senior citizens' centre, provided the remaining two-thirds of the cost was met by the local council and/or the State Government. The **Act** required each State of the Commonwealth to become a participating State for the purposes of the scheme and to administer the provisions in its State.

While the New South Wales Government agreed to become a participating State, and placed the administration of the subsidy scheme under the Minister for Local Government's portfolio, the State was not in a position to offer financial assistance and, accordingly, it was only possible for applications from councils to be processed where two-thirds of the cost was to be met by the council. Subsequently, the States Grants (Home Care) Act was amended to provide that the subsidy payable by the Commonwealth would be two-thirds of **the** capital cost with the remaining one-third payable by the State and/or council and this is the position today.

In view of the above, it will be appreciated that to obtain financial assistance towards the establishment of a senior citizens' centre, the Miranda Senior Citizens' Club would need to approach the Sutherland Shire Council to see whether the Council **would** be prepared to undertake the project on the Club's behalf.

In this regard, I would mention that funds for subsidy purposes have been restricted for the past few years and it has not been possible for all applications received in the Department of Local Government to be funded immediately. In December, 1979, the then Minister for Social Security announced that a three year funding scheme was to operate from 1-7-80. Each year of the scheme \$4 million was to be made available for the whole of Australia. In May, 1980, it was announced which applications on hand had been approved for funding in the 1980-81 and 1981-82 financial years. In September, 1980, approvals were given for funding in 1982-83, but this has still left a few applications awaiting funding.

I was recently advised by the Minister for Social Security that no further funds would be available in the three year period and that **the only** possibility a project on the waiting list had of being funded was if an approved project was withdrawn. Apart from this information I am not aware of what the future of the subsidy scheme will be.

If the Sutherland Shire Council is prepared to undertake the establishment of a senior citizens' centre for the **Miranda Senior Citizens Club** I can only suggest it submit its application to my Department and it will receive every consideration in the light of the funds made available by the Commonwealth and the other applications already on the waiting list. If the Council decides to proceed with the proposal using its own funds this will not prejudice its chance of receiving subsidy if and when further funds are available.

SUTHERLAND SHIRE TRAFFIC

Mr ROBB asked the Minister for Transport—

Will the State Transport Study Group be requested to study the need to improve accessibility within the Sutherland Shire to identify a potential demand **for** **cross** regional public **transport/private** bus operator services?

Answer—

Resources of the State Transport Study Group are currently **fully** committed on several major priority projects and it is not possible at this stage to indicate the extent to which it could be involved with a study of the type suggested **by** the honourable member.

However, the honourable member's proposal has been referred to the Urban Transit Authority, whose charter extends to examination and co-ordination of private and government transport services and it has been asked to report on the proposal.

BICYCLE RIDING ON FOOTPATHS

Mr ROBB asked the Minister for Local Government and Minister for **Roads—**

- (1) Would a woman who suffered a broken ankle after being struck by a bicycle rider on a footpath be eligible for compensation?
- (2) What **penalties** exist under Local Government ordinances forbidding **bi**-cycle riders **from** riding on footpaths?

Answer—

At the present time the provisions of the Local Government Act and the Ordinances thereunder do not permit the riding of bicycles on pathways or **footways** except with the purpose of crossing to or from the road to a gateway. If a person suffers injury because of being struck by a bicycle on a pathway or **footway** and desires to obtain compensation, it would be necessary for the injured person to sue the rider of the bicycle for damages in a court of competent jurisdiction.

However, on **3-8-79** the Metropolitan Traffic Regulations, which are administered by my colleague the Minister for Transport and which apply throughout the County of Cumberland and in Newcastle and Wollongong, were amended to enable bicycles to be ridden along footpaths when they are signposted appropriately. Councils in the areas in which the Regulations apply may now set aside the whole of a footpath for pedestrians or for cyclists a division of the footpath for cyclists with the remainder reserved for pedestrian use, or the whole of the footpath for joint use by pedestrians and cyclists.

Where part of a footpath is allocated for bicycle use it is required that bikes be ridden within that reservation. Also, the amendments made it clear that a person, while riding a bicycle upon a footpath, must lessen the speed of the bicycle and take such other precautions as are necessary to avoid a collision with pedestrians or objects.

Penalties exist for breaches of the Regulations and a Court can impose them upon offending cyclists.

I have approved of similar amendments to Ordinance No. **34** under the Local Government Act, which provides for the control of traffic outside the areas covered by the Metropolitan Traffic Regulations, and which will make **these** measures Statewide. Action is proceeding to give effect to the approval and it is anticipated that the amendments will be gazetted in the not too distant future. The penalty for a breach of the Ordinance in this regard is \$40. To obtain compensation a person involved in an accident with a cyclist on a **footway** would still need to sue the cyclist for damages as explained above.

SUTHERLAND SHIRE OMNIBUS SERVICES

Mr ROBB asked the Minister for Transport —

Will "red **arrow**" express bus services be introduced into the Sutherland Shire following negotiations with private bus operators in areas where studies indicate that such a service is required?

Answer—

The question of introducing "red arrow" express bus services into the Sutherland Shire will be placed before the Urban Transit Authority for consideration.

PUBLIC TRANSPORT INFORMATION

Mr ROBB asked the Minister for **Transport**—

Will "public information displays" advertising the public transport system, private bus services and taxi services for railway stations be installed at Gymea, Miranda and Caringbah and Miranda shopping centre?

Answer—

The question of installing public information displays about the transport system including private bus and taxi services at Gymea, Miranda and Caringbah shopping centres will be placed before the Urban Transit Authority for consideration.

MIRANDA TRANSPORT IMPROVEMENT PROGRAMME

Mr ROBB asked the Minister for Transport —

(1) When extensions are carried out will the transport "interchange improvement programme" for passengers transferring from train to private feeder buses be provided at Miranda railway station?

(2) Will bus shelters be improved following discussion with Sutherland Shire Council and the Urban Transit Authority?

Answer—

The matters raised by the honourable member have been brought to the attention of the Urban Transit Authority for special consideration.

PEDESTRIAN OVERPASS FOR MIRANDA

Mr ROBB asked the Minister for Transport—

Will a pedestrian overpass be constructed on the railway bridge at Miranda railway station to reduce the number of rail travellers crossing at the traffic lights and pedestrian crossing on Kiora Road?

Answer—

The question of providing a pedestrian overpass on the Railway Bridge at Miranda is being taken up with the Traffic Authority of New South Wales for consideration in conjunction with the overall pedestrian needs within the vicinity of the railway station.

Moreover, the Authority has been asked to bring the matter to the attention of the Local Traffic Committee upon which the honourable member is represented.

The State Rail Authority has also been advised of the honourable member's question and asked to ensure the matter is fully examined before decisions are finalized.

CRONULLA LINE CAR PARKING

Mr ROBB asked the Minister for Transport—

(1) Are commuter car parking facilities at Caringbah, Gymea and Miranda railway stations under consideration following the duplication of the Cronulla line between Gymea and Caringbah railway stations?

(2) If so,

- (a) Is the Miranda commuter parking at Gibbs Street, as earlier planned, still under consideration?
- (b) Is the proposed commuter parking at North Street, Gymea, still under consideration?
- (c) Will utilization of railway land from the Jackson Avenue, Miranda, entrance be available for commuter parking?

Answer—

Commuter parking facilities are being reviewed and assessed in conjunction with the progress of the duplication of the Cronulla line.

The question of land availability still **needs to** be determined but the honourable member can rest assured the ~~maximum~~ amount of parking **will** be provided ~~within~~ the area available.

USE OF PUBLIC SERVANTS TO PREPARE ELECTORAL MATERIAL

Mr SCHIPP ~~asked~~ the Premier and **Treasurer—**

(1) Have senior public servants been diverted from their duties to prepare electoral material for use by the Labor Party in the recent by-elections and the forthcoming general election?

(2) If so, will he **direct** Government employees to resume their normal duties?

Answer—

(1) No.

(2) Not applicable.
