al Health Department for access to information relating to the provision of medical services, specifically abortion services, by several doctors for which Medicare benefits were paid (*Age*, 1 November). It was reported that the Association wanted the information for a Federal Court case concerning the legality of medical benefits being paid for abortions. The Executive Officer of the Abortion Providers Federation of Australasia, Ms Jo Wainer, said she had no objection to release of statistics, but disagreed that names of doctors and patients should be disclosed. She also warned that doctors would refuse to 'bulk bill' if their names and those of their patients were subject to disclosure under the FOI Act.

The Confederation of Australian Industy has released a guide to business on how to prevent the disclosure of trade secrets under the FOI Act (*Financial Review*, 11 November). Businesses are required to provide a great deal of information to a number of government agencies. There had been instances where sensitive information relating to business dealings and products had been disclosed under the Act, with potential detriment to the companies involved. While recognising the need for FOI, the guide outlines the type of information which may properly be withheld and advises how to go about securing confidentiality for sensitive or strategic information.

Two members of the Muslim community in Australia claimed their lives had been put at risk by the release of documents revealing that they had met the Minister for Immigration and Ethnic Affairs to criticise certain views of an Imam who has since been expelled from Australia (*Sydney Morning Herald* 3 December). The documents were apparently read out at a rally in support of the Imam, since which threats had been made against the two and their families. The two claimed that the Department had shown 'incredibile ignorance of Muslim community affairs' and that the documents should have been withheld under exemptions to access provided in the FOI Act. The Department responded to the criticism saying that it had no option but to release the documents, and that the two should have advised the Department that they wanted their meeting to be kept confidential.

gaol for fine defaulters

> Yes Your Honour. I know this is ridiculous – although – I'm 'in the news'. I couldn't bring myself to do one of those victimless crimes.
>
> Robert Adamson,
> 'Sonnets to be written from Prison'

The courts still have little choice other than to send fine defaulters to gaol according to amendments to the Crimes and Justices Acts introduced recently into the New South Wales Parliament. The amendments will reduce the time fine defaulters will spend in gaol by doubling the rate at which fines are paid for by time spent in gaol from $25 to $50 per day.

In an interview with the *Sydney Morning Herald* a Senior Law Lecturer at the University of New South Wales, Mr David Weisbrot, said the proposed legislation was intended to reduce the numbers of fine defaulters going to gaol but it did not go to the heart of the problem – namely the fact that (according to the New South Wales Bureau of Crimes Statistics and Research) 71% of fine defaulters did not pay because they could not pay. Mr Weisbrot said that the Victorian Penalties and Sentences Act introduced earlier this year was reportedly working well. That Act allows a court to issue a Community Service Order if the offender is unable to pay.

The Victorian Act imposes a positive obligation on the court to take into account an offender's continuing ability to pay. If the offender applies for an instalment order, a Victorian court is bound to make such an order. In contrast , the New South Wales amendments provide that although the court must have regard to such information as to the offender's means as is reasonably and practically available, the court can take into ac-

count such other matters as may be considered relevant. There is no positive requirement for the court to allow time to pay. Even if requested to do so, the court need not allow the offfender time if it is satisfied that the defendaint has sufficient means to pay or there are, iin the opinion of the court, 'special reasoms for not allowing any time for payment'.. But the court must state those reasons. The Victorian Court also retains a discretion whether to order the defendant to pay costs.

Prisom is only one of a number of alternatives which a Victorian court can choose once default occurs for one month; but a defaulter cannot be imprisoned if they satisfy the court that they do not have the capacity to pay the penaltty or instalment. Other alternatives open to the court are:

- distress;
- community service order;
- vary the instalment order;
- adjourn the matter for up to six months.

Even where the court orders distress and no goods can be found the court may choose between imprisonment and community service.

The New South Wales amendments offer far less choice than the Victorian Act. On default, the court may issue a warrant to commit the defendant to prison or may give the offender another chance to pay or vary the terms of payment and cancel the warrant. The New South Wales legislation is conspicuous in the lack of alternatives to payment or imprisonment.

The New South Wales amendments, unlike the Victorian Act, rule out any appeal against an imprisonment order for failure to comply with payment of a fine.

The New South Wales Attorney-General, Mr Terry Sheahan, has supported the legislation saying that imprisonment would be retained as the ultimate sanction for defaulters but they would have a reasonable chance to arrange a suitable method of payment.

Those critical of the legislation say that defaulters are treated as criminals and are sometimes placed in maximum security prisons. Usually the amounts owed were small – less than $200 – but it costs the taxpayer $85 a day to keep a defaulter in gaol.

According to the Minister for Corrective Services, Mr Akister, community service orders, although an excellent form of punishment, were not suitable for short term sentences because of the time needed to organise training.

constitutional reform

> A state without the means of some change is without the means of its conservation.
>
> Edmund Burke,
> *Reflections on the Revolution in France* (1790)

corrigenda. The limited resources of the Australian Law Reform Commission enforce reliance on the press for the basic information contained in articles for *Reform.* Dr Cheryl Saunders of Melbourne University has been good enough to point out the following errors which occurred as a result of this method of collecting information in the article on constitutional reform in the October 1985 issue of *Reform*:

- The proposal for an Australian Constitutional Convention Council which was attributed to the Victorian Attorney-General Mr Kennan was in fact moved by the Victorian Deputy Premier Mr Fordham and seconded by the then Opposition Shadow Attorney-General Mr Brown although Mr Kennan spoke to the motion.

- The Convention in fact passed the motion in favour of providing a right for a majority of States to initiate referenda.

addenda. Dr Saunders also provided the following information: