



**DEBATES**  
OF THE  
LEGISLATIVE ASSEMBLY  
FOR THE  
AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

22 June 1994

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**Wednesday, 22 June 1994**

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**MADAM SPEAKER** (Ms McRae) took the chair at 10.30 am and read the prayer.

**MADAM SPEAKER:** It being 10.30 am, pursuant to the resolution of the Assembly of 16 June 1994, I call on Executive business, the order of the day relating to the public sector legislation.

**PUBLIC SECTOR MANAGEMENT BILL 1994**

**Detail Stage**

Clause 1

Debate resumed from 16 June 1994.

**MR KAINE** (10.31): Madam Speaker, I move:

That the debate be adjourned.

It must be quite clear to the Government that there are still major concerns held in connection with this Bill by important sectors of our community and by important organisations which will be materially affected once it is put into place. There are a number of reasons why the debate should be adjourned, Madam Speaker. The first is the one that I have insisted upon right from the outset with this Bill, and that is that the Government's approach to the preparation of the Bill was fundamentally flawed from the outset. What we have is a flawed Bill that will create a second-rate public service, not the first-rate public service that we should be seeking to set in place.

The second reason is that there are continuing concerns. Those concerns have been expressed consistently since this Bill was tabled, and they remain in place. They have not been resolved. They were expressed by the Public Sector Union, in particular, as recently as at 8.30 this morning on public radio. That organisation, the biggest organisation whose members will be affected by this Bill, remains concerned about significant elements of this Bill. Despite ongoing negotiations - I presume that there have been negotiations with the Government; we have not been told whether there have been or not - and despite the involvement of the Industrial Relations Commission, those issues have not yet been resolved. I believe that it would be fundamentally wrong for this Assembly to put into place legislation about which major issues have not been resolved, in the somehow unreal expectation that they can be resolved in the future without affecting very large numbers of our employees.

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The third reason why this Bill should be deferred, Madam Speaker, is that the Government is not yet clear on what it wants to do. I found in my letterbox over the weekend a wad of paper from the Government. It was their amendments. There was a covering note that said, "There are further amendments which will be presented to you on Monday". Today is Wednesday and I have not seen those amendments. So the Government has not even delivered on what it told me on Saturday that it intended to deliver. Where are the amendments that it said were still under consideration and which I would have on Monday? These affect, very considerably, the interests of our public servants, because I understand that they deal with the Commonwealth Public Service Act section 50 transfers, which have been a major bone of contention with the trade unions right from the beginning. We do not have those amendments.

Furthermore, I was told by telephone only yesterday that the Government was changing its approach in connection with the Director of Public Prosecutions and the Legal Aid Commission. For them to do so would require amendments further to the ones that have been tabled already. I do not have those amendments. I do not know, as of this moment, what the Government's intentions are in connection with the Director of Public Prosecutions or the Legal Aid Commission. I do not know what the Government's intentions are in connection with the controversial issue of section 50 transfers under the Commonwealth Public Service Act.

There are those three matters. How many other issues are there that the Government has not sorted out yet and has not even told us about? Presumably, they are just sitting on them in the hope that after this Bill is put into place they will be able to fix any problems that surface. In connection with another matter, the report of the select committee, which the Government so arbitrarily rejected last week, expressed some concerns on behalf of the ACT Electricity and Water Authority. I understand that there have been negotiations with the professional officers of the ACT Electricity and Water Authority and that some agreement has been reached. But what is the nature of the agreement? I do not know. Since their concerns were properly expressed to a select committee of this Assembly whose report was arbitrarily set aside by the Government, just what arrangement have they made? Are these professional officers of the ACT Electricity and Water Authority satisfied with the outcome? The Government has an obligation to tell us, since they arbitrarily set aside the recommendations of the select committee.

There are major issues here that have yet to be resolved as matters of principle. The Government, if it had any decency at all, would resolve them before it expects this Assembly to go ahead and debate the Bill. Madam Speaker, I believe that the Government is not acting in good faith on this matter. It has set its mind on a target and it is determined to achieve that target no matter what - no matter whose interests are overridden; no matter whether we are creating a second-rate public service when we have the opportunity to create the best, the most proficient and the most efficient public service in Australia. They expect us to come here today with some sort of good faith.

We have not seen much good faith on the part of the Government yet, but they expect us to take them at face value. They say, "If there are any major problems, trust us. We are from the Government. We will fix it". I do not trust them. The Public Sector Union obviously does not, and I suspect that there are a lot of other professional organisations and groups, whose interests are going to be materially affected once this Bill is put into place, who do not trust them either.

It is not good enough to force through this kind of legislation, flawed legislation, over the objections of a significant number of members of this Assembly, over the opposition and the objections of a very large part of the constituency of the Government which is going to be affected by it, and without having any regard whatsoever for the consequences of that for the general public and the taxpayers of this Territory. I argue very strongly, Madam Speaker, that, under those circumstances, if the Government had any conscience at all it would adjourn this debate until those issues are resolved and then bring the legislation back. I submit that, if they did, the legislation would take a rather different form from that which it is taking now. I ask the Government to think very carefully. Before they proceed to debate this flawed legislation and put it into effect, against widespread opposition and concern, they should think very carefully about what they are doing and support the motion for deferral.

**MR LAMONT** (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (10.38): Madam Speaker, first of all, may I apologise to Mr Kaine. I make that apology on behalf of his leader rather than the Government. It is obvious that Mr Kaine has not been kept informed by his leader as to the events that have occurred since last Friday. Mr Kaine, you talked about the DPP, the Legal Aid Commission and ACTEW. You also talked about section 50 transfers.

Madam Speaker, last week, when we adjourned the debate on clause 1, it was agreed that there would be a process put into place. It was agreed that we would attempt to provide, as far as practicable, the amendments to the legislation by the close of business last Friday; that we would attempt to negotiate, at a round table conference on Monday, the matters that were still in dispute between all of the parties; and that we would come along today, hopefully, with the final amendments and be able to proceed. That, in fact, is what we have delivered.

**Mr Kaine:** Rubbish!

**MR LAMONT:** It is not only what the Government has delivered; it is what Ms Szuty has delivered; it is what Mr Moore has delivered; it is what Mr Stevenson has delivered; and, dare I say to you, it is what Mrs Carnell has delivered. Mr Kaine, it is what Mrs Carnell has delivered, because the amendments proposed following the round table conference have been incorporated into the Government's amendments. That simply is the position that was agreed last week, and that is the procedure that we intend to go through today.

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Madam Speaker, the debate on this Bill in the detail stage will give not only the Opposition but also each of the members on the cross bench the opportunity to see in practice how these amendments will work. I will go to the section 50 transfer question. Mr Kaine, you either do not understand or are deliberately ignoring the issues associated with portability. I also heard that interview this morning, and the section 50 transfer issue is a dead issue. Portability and transferability - two different matters - are not a concern that the unions have with their employer, the ACT Government. There is still one particular matter in regard to that to be finalised by the Commonwealth. The Commonwealth has indicated, in relation to its obligations, that it is prepared to have those matters tested before the commission. We are back before the commission this Friday to finalise that matter as far as the Commonwealth is concerned. In my view, it does not affect the way this legislation is proceeding this morning.

Mr Kaine, I am always a generous person when debating matters with you. I would suggest that your submission this morning was made on the basis of some extremely poor communication within your own party. We are in a position to proceed. We have gone through a process which, I believe, has been acceptable to the majority of the members of this Assembly. Without reflecting on a vote last week, Mr Kaine, it is the will of this Assembly that we proceed in this fashion.

**MRS CARNELL** (Leader of the Opposition) (10.42): Madam Speaker, I think Mr Lamont raised a number of very interesting issues. He said that amendments would be circulated by the close of business last Friday. Obviously, they have a different view on what the close of business is, as I received my amendments at some time after 7 o'clock. I understand that people who were not in the Assembly received them - - -

**Mr Connolly**: It is just that we are open for business for extended hours over here. We work hard.

**MRS CARNELL**: Except that nobody was upstairs, by the way, Mr Connolly. That means, Madam Speaker, that those people who were going away for the weekend, or who had other things on, simply did not get their amendments because they were not there by the close of business. The Government promised them by the close of business on Friday. It did not happen. We then had the meeting on Monday - and a very useful meeting it was too, I thought - at the end of which we were to have these other amendments. We did not get them, did we? In fact, I had not seen them until right now; nor had anybody else on this side of the house. In fact, this morning I had the very exciting experience of having to put together an amendment to an amendment that I had not seen. My amendment No. 1 had to be changed to suit your amendment No. 1. Unfortunately, we had not been given the amendment No. 1 that my amendment had to relate to. How ridiculous! This Bill is ridiculous the whole way through.

In fact, the letter that we received last Friday after the close of business referred to "several further amendments". I am quoting directly from the letter signed by Mr Wedgwood. He said that several further amendments relating to section 50 transfers between the two services - these things that are dead issues, according to Mr Lamont - and the transfer of leave credits would not be available until Monday morning. It did not happen on Monday morning, Mr Lamont. When did it happen? On Wednesday morning, we assume; but, of course, because we did not get them until now we have not had an opportunity to read them.

When I spoke to the union people - I am sure that they came to see everybody yesterday - I said to them, "Mr Lamont says that section 50 transfers are a dead issue. Do you want us to withdraw support for those?". They said, "Wrong; Mr Lamont is wrong". Section 50 transfers are not a dead issue. In fact, they believe that they are very important. They said, "Please, Mrs Carnell, do not withdraw support for that because, yes, it is something we want. The other thing we want is for you not to debate this Bill today because it is not in a form that we believe is appropriate". They are not the only people who said that.

**Mr Lamont:** You have bought the three card trick again, Kate.

**MRS CARNELL:** Are you suggesting that the people involved do not tell the whole truth, Mr Lamont?

**Mr Lamont:** You have bought a three card trick again.

**MRS CARNELL:** Is that what you are saying, Mr Lamont?

**Mr Lamont:** No. You have bought a three card trick.

**Mr De Domenico:** No. You have bought a dud Bill.

**MADAM SPEAKER:** Order! Mr Lamont and Mr De Domenico, order!

**MRS CARNELL:** The fact is that this morning we have on the table amendments that we have not seen to probably one of the more important Bills.

**Ms Follett:** So have we, from you.

**MRS CARNELL:** Again, we are saying that this Bill is certainly not ready to be debated. Yes, there are amendments on the table that nobody has read. There is a huge number of amendments here today, including ones that have consequential effects. The whole situation is ridiculous. We are going to end up with a hotchpotch of a Bill; a Bill that does not achieve what we, as an Assembly, and what the people of Canberra want to achieve. Given another month or another couple of months, that could have been done. You on that side of the house have not given us one good reason why this debate has to happen today, or one reason why the stand-alone public service has to be in place by 1 July. Even your senior public servants have not been able to give us one good reason.

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**MR MOORE** (10.47): Madam Speaker, I can give you two good reasons why we can go ahead today - one is sitting there and one is standing here. Madam Speaker, it seems to me that if we allowed this to go on for a couple of months we would have a repeat of this same debate. No matter how much time the Liberals were given, they would come down with exactly the same kinds of arguments in order to delay this Bill because they seek to ensure that a Liberal approach to public sector reform is part of this Bill. I have no problem with considering a Liberal approach to public sector reform; but I would like to do that later, and we can do it later. We are in an appropriate position now to proceed with this Bill.

The amendments that have been put on the table this morning are largely the same, except that now they are in a much neater form than we had before and they are in order. Mrs Carnell talked about making an amendment to an amendment. She knows from that round table discussion that it is an area on which she is going to lose. It is okay for her. I still respect her right to put those amendments.

**Mrs Carnell:** Thank you. I said at that round table discussion that I would move them.

**MR MOORE:** She indicated that she would be moving them. So she should. She should try it on. The necessity to draft an amendment to the amendment does not require a great deal of effort. I believe that we still can proceed and we still ought to proceed with this debate now, and we should continue it in an orderly manner.

**MR CORNWELL** (10.49): Madam Speaker, I rise briefly to take issue with some of Mr Moore's remarks. I agree with Mrs Carnell that this is a hotchpotch. I believe that Mr Moore is, in fact, abdicating his responsibility as an elected member in being prepared to accept at face value a series of amendments. Mr Moore will not take issue with me on this because I am sure that he will accept that it is our duty to read these amendments that arrived only this morning. They may well be, Mr Moore, as you say, simply tidied up amendments; but it is our responsibility to make sure that that is the case.

**Mr Kaine:** They are not, however.

**MR CORNWELL:** My colleague Mr Kaine is questioning even that statement - that they are simply tidied up amendments. I do not believe that we are accepting our responsibilities as elected representatives, Mr Moore, if we are prepared to accept at face value the views of the Government on this matter. We have an overriding responsibility to make sure. This Government has had a ham-fisted approach to this whole question of amendments. As Mrs Carnell said, my papers arrived in my letterbox at approximately 8.45 on Friday night. That was hardly the close of business. What was promised for Monday, as Mrs Carnell said, arrived on Wednesday morning, virtually minutes before we were due to debate this important legislation. How can we possibly do justice to it?

The Government has had ample time to bring this forward. It has had years to do it. I put it to you, Madam Speaker, that the only reason why the Government wants this Bill to go forward and to go through by 1 July is to salve the Chief Minister's ego. She said that it was to go through on 1 July and therefore the rest of this Assembly is obliged to click its heels and fall in behind her on this date. We in the Opposition do not believe that that is the correct way to approach this. We know that there are unions who,

whilst they may not disagree with the content of the Bill, have sought a delay in its progress. I believe that that is a perfectly responsible view to take. I do not believe that this Assembly should be dragooned into passing this Bill today simply to placate and to support a commitment made by the Chief Minister that this would be introduced on 1 July 1994. That is an irresponsible approach for any member of this Assembly to take, and I believe that it is particularly irresponsible for the Independents who, after all, hold the balance of power in this place. I can well imagine the clones of the Government falling in behind the Chief Minister, but the rest of us certainly do not have to be so stupid.

**MR STEVENSON (10.52):** This legislation is important. We all understand that. It covers over 200 pages and has hundreds of clauses. It is difficult legislation. It involved a great deal of consultation with a large number of groups, and it will have a great impact on how things operate in the ACT public service and therefore how they operate in the ACT. To call for an adjournment of this matter is a sound move.

Let us look at some of the reasons why. Mr Moore mentioned that there were two good reasons - himself, standing up, and Ms Szuty, sitting down. I think it is well known that I have never thought that numbers are good reasons for anything. The numbers may have the power, but they are never a reason for something. There are many cases around the world of debates being won but the numbers do not allow that view to be heard. It would be far better if we had debating adjudicators in this Assembly and adjudications were made at the end of the debates. I think we would find some interesting situations.

Let us look at some reasons that have not been raised as to why the matter should be adjourned. I suppose the major reason is that there are so many groups within the public service who are concerned about the legislation and feel that there are problems. That, obviously, is the first major reason. The suggestion that things have been patched up over the last few days and that what was said on radio this morning was not really a problem is not sound. I do not think anybody else genuinely thinks it is either.

We all understand that the Chief Minister said that the legislation was unchangeable. We should allow latitude in interpreting the definitions of words. "Unchangeable" does not mean that something cannot be changed, and it should not mean that. It means that things will be changed as necessary. Let us look at some of the changes. We were given what was termed to be 109 changes, but only about 87 are listed, according to the numbering. I think that the others are within the list but are not numbered consecutively. One would have assumed after all those that everything was fine; that the Bill now, with the amendments, is unchangeable. As we know - as Mr Lamont pointed out at the meeting on Monday morning, two days ago - the Bill was changed and we were given more amendments. There were more amendments tabled. No doubt, they would be unchangeable. But, just before I left my office to come downstairs to the Assembly, I was given some more amendments. I had to read them in detail to work out where they were from because they are headed "Listed amendments ACTEW". It sets out the Government position and the Opposition position, and it has Government and Opposition amendments. I am not sure whose amendments they are.

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**Mr Kaine:** Whose document is it?

**MR STEVENSON:** I am not sure whether it is an Opposition document or a Government document. It may be either. I will try to read it as we go through the morning, if we do not adjourn the debate. Presumably, that was the final list of amendments. Yet, when we arrived here this morning, we were given what Mr Moore refers to as the "tidied up" version of amendments. Let us hope that they are all tidied up to the degree that they were when given to us previously, because we certainly have not had an opportunity to read them.

I am not suggesting that any of the amendments are wrong. I think it is great to be able to look at legislation and see where it can be improved, after consultation, or simply by going through the matter and gaining an understanding that there is a better way of doing something. I think that is marvellous. As members know, I have tabled the Electors Initiative and Referendum Bill a couple of times after receiving suggested amendments. I last did that last Wednesday, and what we have before the parliament is the final thing. There are no other amendments floating around. When you read the Bill you do not need to sit down with a pile of papers in front of you and try to work out how everything relates.

I suggested some time ago that the best way of dealing with the Public Sector Management Bill would be to put all the amendments together and then allow us time to read it in this form. Would that not be sensible? If anyone wants to stand up and say that it is not, stop pulling our legs. This is important legislation. It is not a political matter. It is a commonsense matter. We are not talking about whether or not the legislation should be passed. The Assembly has agreed that the legislation, in principle, should be passed. What we are talking about is how it will work.

We have heard the suggestion, "Let us divorce the Public Sector Management Bill from reform of the public service. Let us pass the Bill that governs the public service and later we can look at reforming the public service". I would suggest that that is not the best way to go about introducing laws into this Territory, particularly a law as important as this law. I ask all members to rethink. Do not necessarily hold to an earlier viewpoint. Look at the situation. There are too many groups that are concerned about problems with this legislation. Too many amendments have been made. I agree with the principle of amending things. There is nothing wrong with that. But these amendments have been made recently. I doubt that any member, any one of the 17 of us, has had a chance to read the Public Sector Management Bill together with the final, tidied up amendments.

For five years we have had legislation pass through this Assembly too rapidly. At one time or another, I believe, every member in this Assembly has stood up and said, "With this particular legislation, do not rush it through. Let us adjourn it. Let us wait. Let us provide a bit more time for consultation. Let us look at these matters". A number of times, unfortunately, that was not agreed to because of the numbers. It was not because of commonsense, not because there was nothing else to consider, but simply because of the numbers. It has been shown again and again that the

thinking of those with the numbers was not right. We have had legislation back in this Assembly to be amended again and again. Sometimes simple errors have caused problems; something was not typed correctly or clauses did not relate, particularly when there had been last minute amendments. With less haste, most of these things would not have happened.

What I call for, on behalf of all of us, is less haste. By all means, let us do the job, and let us do it well; but let us do it in due time. Let us give the people who still have concerns an opportunity to get them across. Adjourn the matter. No-one wants to stand in this Assembly in the coming months and in the coming years and have to refer to this time when important laws were passed without sufficient time for correct adjudication. As Mr Moore says, we are all adjudicators, and I agree; but give the adjudicators time to get it right. No-one wants to stand up later on and say, "I know why we got it wrong. It was because it was rushed through". Let us adjourn it.

**MS FOLLETT** (Chief Minister and Treasurer) (11.03): Madam Speaker, it is becoming abundantly clear that this Assembly is to be subjected to a filibuster by members of the Opposition in a last ditch attempt to delay the passage of this legislation. We have seen speaker after speaker from the Opposition, with nothing new to add to the debate, get to their feet merely to seek to delay the progress on this Bill. I consider that to be the height of irresponsibility.

Madam Speaker, a motion was passed in this Assembly last week saying that the Bill would be considered today. In seeking to filibuster their way out of that motion, which was agreed to by the Assembly, I consider that members opposite are showing contempt for a motion passed in this Assembly. It was clearly the will of the majority of members that the Bill be considered today. There was no opposition from the Liberal Party to that motion, as I recall. Madam Speaker, we have a clear obligation to proceed today, and to proceed in an orderly and businesslike fashion, not with this empty filibuster that we are getting from members opposite.

A couple of issues have been raised which I would like to clarify. The first of those, Madam Speaker, concerns the right of any member of this Assembly to move an amendment to a Bill while it is being debated. This morning we received from Mr Stevenson a couple of amendments which are entirely news to me. Despite the fact that Mr Stevenson was present at the round table discussions on Monday, he did not indicate that he would be moving amendments, although the issues discussed were at least touched on at that debate on Monday. We also have, just today, additional amendments put forward by Mrs Carnell. That is a member's right, and I accept absolutely that that places demands on all members in the course of a difficult debate. Of course it does.

Madam Speaker, the Government's amendments were given to members at the meeting on Monday. Also, as in the case of Mr Stevenson's amendments, other issues were discussed. For instance, ACTEW, the Legal Aid Commission, the Director of Public Prosecutions and the matters which are now subject to later Government amendments were canvassed at that meeting, so members simply cannot claim that they were unaware of those issues. So, Madam Speaker, I think it is most unfortunate that people are now pretending that issues are being sprung on them.

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Mr Stevenson referred to a particular method of handling amendments. I can say to Mr Stevenson that I largely concur with what he said. The document that was handed to members as they came into the chamber was an attempt to assist. It does not contain additional amendments. It was an attempt to put together under helpful headings all of the amendments that we knew about at the time. It is a document that is aimed at assisting the debate under the headings that we knew, from the discussions that we have had with other members, were likely to be the subject of debate. If that has caused offence, I apologise to members; but I can assure you that it was offered by way of assistance to us all in what could be a confusing debate because of the very many amendments to be moved and the need to get them into a sensible sequence that does assist the debate.

Madam Speaker, my main point is that the Liberals are going to try to delay the debate on this Bill by fair means or foul. What we are seeing from them is nothing more than an attempt to delay - a filibuster. We have all been around long enough to recognise one when we see one, and I have no doubt that it is not over yet. Madam Speaker, I have no doubt that they will try to keep that up for the whole course of this debate. Shame on you! The Assembly has voted to have this debate. If you hold the Assembly in such contempt that you are not prepared to have the debate, you ought not to be here.

**MR DE DOMENICO (11.07):** Madam Speaker, first of all, may I comment on a couple of things that were said by previous speakers.

**Mr Wood:** You will take your filibuster full length.

**MR DE DOMENICO:** Mr Wood, I look forward to your intelligent contribution to this debate later on.

**Mr Wood:** It is intelligent. You are filibustering.

**MR DE DOMENICO:** I doubt whether you have even read the Bill, Mr Wood; so do not interject.

**Mr Wood:** I will not interject further because it allows you to carry on the filibuster more and more. Carry on. Get on with it.

**MR DE DOMENICO:** Thank you, Mr Wood. You just keep reading over there and you will be all right. Do not worry. Just stick your hand up when Ms Follett tells you to. Everything will be all right.

Madam Speaker, Mr Moore said what was perhaps the most important thing I have heard here this morning. Notwithstanding what we are all about, he said that there are two reasons why this Bill will go through today. "Here is one of them", he said, pointing to himself, "and there is Ms Szuty". If that is the way Mr Moore thinks about debating legislation in this place, shame on him. Shame on you, Mr Moore!

One of those two reasons, I understand, was the reason why we did not debate another Bill last week in this place. That Bill was all of one-and-a-half pages long and did something as incredibly important as allowing a plumber to pull away an electrical wire from a hot-water service, to link in with New South Wales. One of the reasons why we did not debate that Bill here last week was that members did not have time to look at it. Yet this Bill has 253 clauses. We have over 100 amendments to this so-called perfect Bill that everybody wants to pass today, and it affects 23,000 people in this community.

**Mr Stevenson:** And the rest.

**MR DE DOMENICO:** And the rest, as well. It affects at least 23,000 people, Mr Stevenson. We are told by the Chief Minister that the only reason why the Opposition and other members of this place are standing up and speaking as we are speaking now is that we want to filibuster. How wrong she is!

**Ms Follett:** I do not think so.

**MR DE DOMENICO:** You may think what you wish, Ms Follett. You are the one who is irresponsible. You have had since May 1992 to fix this thing properly, and you have not fixed it yet. If you have any doubts about that, go and speak to the Public Sector Union, and go and speak to all the other members of this community who believe that you are irresponsible. You are leading an irresponsible government that really does not give a damn about the benefits to the community or the public servants. All you are on about is trying to make sure that you get your way. Nothing is going to stop you from getting your way, and nothing will. The only reason why nothing will is that 10 beats seven every time. Well done; you can count. You are the one who is irresponsible, Ms Follett, not the Opposition. As hard as you try to camouflage that, it will not work. It will not work because the people out there know exactly what this is all about. This is all about irresponsible government. Mr Moore also talked about a Liberal approach. Once again he was right. This is a Liberal approach because it is a commonsense approach. We have a Bill with 253 clauses. Amendments were being delivered into members' letterboxes at 8.45 on Friday night, and promises made to deliver other amendments on Monday were not met. We have pieces of paper floating all over the place. Members are coming in at the last minute and putting in amendments.

**Mr Connolly:** Yes; some of them coming from your leader.

**MR DE DOMENICO:** I want to listen to you as well. Do not interject, because I will keep interjecting back at you. You probably have not read the Bill either.

**Mr Connolly:** Give us your angry look, Tony. Come on!

**MR DE DOMENICO:** No, it is not an angry look. It is a commonsense approach, Mr Connolly. You would not know what that means. This Bill has 253 clauses and there are more than 100 amendments, some of which are flying in from right, left and centre on the day that it is being dealt with. If you can stand up later and tell me that this is the way to pass good legislation, you do not deserve to be Attorney-General. Do not start interjecting. Keep reading your dictionary or your novel, and keep out of the debate unless you have something constructive to say.

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This is all about making sure that the Chief Minister's wishes are met, and nothing else matters. Mr Moore and Ms Szuty, good on you; you will vote with the Government and this Bill will get through today, but you have to wear the consequences of doing so. I hope that you wear the consequences of doing so. I can tell you, Mr Moore and Ms Szuty, that, come 18 February next year, or whatever the date is, a lot of people will be reminded time and time again about the irresponsible way in which this Bill was passed today because of your two votes.

**MR BERRY** (11.13): The people will be reminded of the double-dealing Liberals. It is clear that the Liberals endorsed the proposal to have this Assembly sit today to deal with the Public Sector Management Bill. I heard Mr Humphries interject during a speech earlier. He said, "We opposed that move to have this sitting today to look at the Public Sector Management Bill". I have taken the trouble to look at the uncorrected proof copy of *Hansard*. The motion moved by Mr Lamont was that the next meeting of the Assembly be fixed for Wednesday, 22 June 1994. We all recall that motion, so I will not go on with it. Then the question was put by Madam Speaker. It is funny; there was no debate in between. There was not a sound from the Opposition. They were committed to that outcome. As the Manager of Government Business here, if there was a change of direction of that order, I would expect to be told. There was not a sound to indicate that the Liberals were going to attempt to defer debate on this issue today.

Given that background, given that they emphatically supported the move when we last sat, how is it that they can sit over there, barefaced, and say that they are serious about debating this issue? This is just a political stunt - - -

**Mr De Domenico:** Sit down. That is what you said VITAB was, too.

**MADAM SPEAKER:** Order!

**MR BERRY:** This is just a political stunt by a group of people who do not know where they are going on this issue. They are grabbing at straws in relation to the debate. Mr Humphries said that they opposed it.

**Mr Humphries:** Who is filibustering now?

**MR BERRY:** I could be accused of being drawn into the trap, I suppose; but there are a few things that have to be said. Having said them, Madam Speaker, I will not continue. The people of the ACT will recognise the Liberals for what they are, and in this case they have been two-faced in the extreme.

**MR HUMPHRIES** (11.15): Madam Speaker, the Chief Minister has accused us of filibustering on this matter. I will prove to her that neither I nor my colleagues are doing so by taking less than my allocated time in this debate on the motion that the Assembly do now adjourn, like Mr De Domenico and my other colleagues. If we were going to have a filibuster we would be taking a full 10 minutes each, would we not? But we are not. Madam Speaker, I want to put on record - - -

Members interjected.

**MADAM SPEAKER:** Order! The question is that the debate be adjourned, not the Assembly. Let us get the question right and let us have a bit of order.

**MR HUMPHRIES:** Precisely, Madam Speaker. That is why I am not taking my full 10 minutes in the debate on the motion that this matter be adjourned. It is my view that this Bill will pass today. It has the support of Mr Moore. Obviously it will pass. It is obvious that our position has been, from the outset - - -

**Mr Berry:** Tell us how you opposed the motion to consider it today.

**MR HUMPHRIES:** Mr Berry failed to read the other pages of the debate. He quoted the last page but failed to refer to the fact that we had advised him that we were opposed to the motion. He failed to read the pages and pages of criticism preceding those words he quoted.

**Mr Berry:** But you did not oppose the motion. Why did you not debate the issue?

**MR HUMPHRIES:** We did vote against it, as it happens.

**Mr Berry:** You did not debate it and there was no vote.

**MR HUMPHRIES:** We had had the debate. We were opposed to this matter coming forward at this stage because we felt that there had not been sufficient debate on the subject. There were too many loose ends that were not tied up. I listed in my speech, for example, the many unresolved matters to do with this debate and the fact that there were countless organisations and issues which had yet to be satisfied in respect of this debate. Mr Berry knows that.

**Mr Berry:** But you supported the motion.

**MR HUMPHRIES:** We did not support the motion.

**Mr Berry:** You did support the motion. No vote was taken. There was no debate.

**MR HUMPHRIES:** Mr Berry's mind, obviously, has been drawn off to other things in the last few days. Obviously, he is a bit rattled by the outcome of the VITAB affair and has forgotten that he was advised on Thursday of last week that the Opposition opposed that motion.

Madam Speaker, we stand by the view that this matter should not be dealt with today. The most important reason for not dealing with it today is that an essential element of this whole arrangement - namely, mobility for public servants in the ACT service between here and the Commonwealth Public Service - has not been resolved. It is an extremely important issue. Do not take my word for it; take the word of those unions which have made fierce representations to this stonewalling Government over there.

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They say, "We believe that our rights need to be protected and they are not protected under the present arrangements. Please hold off". They are the ones who have said, in no uncertain terms, "Please forget this rhetoric about the 1 July deadline. Give us time to sort out the matter". They have very good reason for making that representation to the Government, because the Federal Parliament is yet to consider the reciprocal legislation dealing with this matter. The Federal Parliament will consider that legislation at the end of next week, I understand, or the middle of next week. As members well know, there will be amendments before the Federal Parliament to insert a further two-year transitional period of mobility between the two public services. That is an extremely good reason, it seems to me, to hold off until we have some indication of what the Federal Parliament is going to do.

This Government promised more than two years ago to have this stuff in place. Now, at the death knell, it rushes forward with more than 100 amendments. Those are the Chief Minister's amendments alone. There are 101 amendments before the house today. Originally there were only 87 amendments. The rest have come in, in dribs and drabs, since those original amendments were tabled. Now you have the nerve to say that Mrs Carnell dares to bring late amendments to the Assembly.

**Ms Follett:** I said no such thing.

**MR HUMPHRIES:** For goodness sake, where are you people coming from? What hypocrites you are to be making those sorts of charges!

I want to put on record that I do not see this process as being appropriate. I want to put on record the fact that my party sees many problems with this legislation. If we win government in next February's election we believe that we will have to come back to this legislation and make many changes. In the meantime, while it is desirable to have the goal of a separate public service, it is more desirable to meet the goal of having a good public service with a sound legislative basis. We on this side of the house do not believe that that is being achieved by this Bill. I sit down with six minutes of my time remaining.

**MS SZUTY (11.20):** I am on the record in this chamber and in the public arena as saying that I continue to have an open mind on the issue of when we should finalise debate on this legislation. Before I talk substantively about the process as I see it, I would like to remind members of two recommendations in the report of the Select Committee on the Establishment of an ACT Public Service which we debated last week in this Assembly. Recommendation 4 said, in part:

ACTEW should be exempted from the legislation pending further review, with the review to be completed by 30 September 1994 ...

My understanding, as a result of our discussions at a round table conference on Monday, is that ACTEW are now happy with the provisions of the Public Sector Management Bill as they will apply to them. So far as ACTEW is concerned, I see no further reason to delay the passage of this legislation.

Recommendation 5, which I supported as a member of the select committee, says:

The Committee recommends that, until the matters dealt with at recommendations 2, 3 and 4 are adequately addressed, the passage of the Public Sector Management Bill and the Public Sector Management (Consequential and Transitional Provisions) Bill be deferred (but not beyond the 1994 Spring Sittings of the Legislative Assembly).

Again, as a result of the round table discussions that members had on Monday of this week, this Assembly has now addressed the issues in relation to ACTEW which I mentioned previously, the Office of the Director of Public Prosecutions and the Legal Aid Commission. There are various amendments which we will address later on this day during the debate.

While I have been listening to other speakers during this debate, Madam Speaker, I have been going fairly carefully through the Government's amendments which have been put forward today. At the moment I am up to page 21 of those Government amendments. So far I have found about half a dozen new amendments based on the results of the round table discussion that we had on Monday which do not cause me any difficulty whatsoever. As for the other amendments that the Government has brought forward today, most members who have been involved in this debate have had since Friday evening to consider them. We also had the opportunity to discuss them at the round table discussion on Monday. Therefore, Madam Speaker, I do not have any problem with going through these amendments in the course of the debate today.

Several speakers have mentioned the outstanding issues which still remain, the Commonwealth's legislation which is yet to be passed and the process that the Industrial Relations Commission is still going through. My understanding is that the concerns of both the Trades and Labour Council and the Public Sector Union have been taken up in the ACT's legislation. The Industrial Relations Commission still has the power to decide issues differently, and the ACT legislation can be amended, if necessary, at a later date. This is because the decisions of the Industrial Relations Commission take precedence over the ACT's legislation anyway. On that basis I believe that the Assembly can proceed to debate this legislation today and can work through the amendments that we have before us.

Mr De Domenico mentioned the Electricity (Amendment) Bill that, interestingly, did not come on for debate during the Assembly sittings last week. I had some discussions with Mr De Domenico last week about delaying the passage of that legislation, if necessary. However, I do note that the Bill did not come on for debate. I also note that last week the Assembly was concentrating its efforts on the report of the Select Committee on the Establishment of an ACT Government Service and the Public Sector Management Bill.

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Question put:

That the motion (Mr Kaine's) be agreed to.

The Assembly voted -

AYES, 7      NOES, 10

Mrs Carnell    Mr Berry  
Mr Cornwell   Mr Connolly  
Mr De Domenico   Ms Ellis  
Mr Humphries Ms Follett  
Mr Kaine       Mrs Grassby  
Mr Stevenson   Mr Lamont  
Mr Westende   Ms McRae  
                  Mr Moore  
                  Ms Szuty  
                  Mr Wood

Question so resolved in the negative.

Clause agreed to.

**MADAM SPEAKER:** Is it the wish of the Assembly to postpone consideration of clauses 2, 4, 6, 7, 9 to 11, 14 to 25, 27, 29 to 31, 33 to 35, 37, 38, 40 to 43, 45, 47 to 49, 52, 53, 55, 56, 60 to 62, 66, 67, 69, 71, 73, 76 to 79, 82 to 84, 86 to 96, 99, 101 to 103, 105, 107, 109 to 114, 116, 118 to 132, 134 to 147, 149, 151 to 153, 157, 160 to 166, 168, 169, 171 to 180, 182 to 191, 193 to 233, 241 to 243, 245 to 250, 252 and 253? These clauses do not have amendments circulated in relation to them. Consideration of clauses with amendments will be facilitated by this course of action. There being no objection, we will continue on that course.

Clause 3

**MS FOLLETT** (Chief Minister and Treasurer) (11.30): Madam Speaker, I move amendment No. 1 circulated in my name, and I present the explanatory memorandum. That amendment reads:

1. Page 2, lines 19 to 23, subclause (1) (definition of "autonomous instrumentality"), omit the definition, substitute the following definition:

"'autonomous instrumentality' means -

- (a) the Australian Capital Territory Electricity and Water Authority; or
- (b) the Office of the Director of Public Prosecutions;"

Madam Speaker, this amendment concerns the definition of "autonomous instrumentality". I am proposing the omission of the Legal Aid Commission and the insertion of the Director of Public Prosecutions. I think this is one of the issues on which there could well be some fairly substantial debate. The Government is proposing to amend this clause to remove the Legal Aid Commission simply because we recognise that leaving the Legal Aid Commission in this Bill does not have the support of the majority of this Assembly. I also consider it appropriate for the Government to move this amendment because, as far as I am aware, a similar amendment circulated by the Opposition does not pick up all the consequential amendments that would need to be made.

In relation to the Director of Public Prosecutions, I consider that there is a clear will on the part of all members of the Assembly - Government members included - that the Director of Public Prosecutions operate at all times independently of the Government. The Director of Public Prosecutions has been a public service office always and, as far as I am aware, there has not been a problem with it operating independently under the Commonwealth Public Service Act provisions. Nevertheless, I am aware of the concern expressed by the DPP. We have sought to find a solution that would address the DPP's requirement for that total independence, and also our requirement that the other staff of the DPP be treated no less well than other members of the new ACT Government Service.

The proposal is that the DPP will be an autonomous instrumentality. That will protect the independence of the DPP by allowing him or her to make decisions that will be the responsibility of the Commissioner for Public Administration for the rest of the service. I am particularly pleased to say that retaining the DPP's staff within the wider public service provisions enables them to have far greater mobility and choice in their career options. I have, Madam Speaker, a copy of some correspondence between Ms Webb, the acting secretary of the Department of Public Administration, and Mr Crispin, the Director of Public Prosecutions, which indicates to me that the autonomous instrumentality model is satisfactory to the DPP, although he has raised a couple of minor side issues. Those side issues have been addressed by Ms Webb. This is a compromise that appears to meet everybody's requirements, and I commend the amendment to the Assembly.

**MR KAINE** (11.34): Madam Speaker, the Liberals oppose this amendment. We favour amendment No. 1 circulated by Mrs Carnell. We would support that amendment in preference to this one. The Government's logic is completely flawed. We have two offices - the Legal Aid Commission, which we agree should not be included here, and the Office of the Director of Public Prosecutions, which, equally, we believe should not be included here. To argue that somehow they are different is a peculiar approach to logic. The Legal Aid Commission and the Director of Public Prosecutions each have their own statute under which they operate. Under the Government's proposals the heads of both of those organisations will be given the powers of a chief executive, and I would submit that the staff operating in both of those organisations are in exactly the same position. There is no difference between the staff who are working for the Legal Aid Commission and the staff who are working for the Director of Public Prosecutions, because both are responsible to statutory officers and both, in accordance with the evidence put to me in the select committee hearings, require to be separated from the rest of the public service in terms of the ability of other public servants anywhere to direct them or to require something of them.

For example, whether you work in the Legal Aid Commission or whether you work in the Director of Public Prosecutions' Office, if you are an ASO6 and you are involved in a case that is currently being prosecuted and a senior officer somewhere else in the public service under this centralised management that this Bill imposes says, "Give me the file dealing with such and such a case", your inability to respond in both cases is the same. There is an element of confidentiality here that applies whether you are in the DPP's Office and you are talking about a case that is being prosecuted there, or whether you are working in the Legal Aid Office and a case is being defended there. In both cases the officer can be involved in a case in which the Government is the respondent.

**Mr Humphries:** Or a Minister.

**MR KAINE:** Yes. There is no difference, in fact, between the positions of the staffers in those two organisations. If the Chief Minister can argue, as she has done, that the Legal Aid Commission ought to be left out of this, for valid reasons, then those reasons apply equally to employees of the Director of Public Prosecutions. They should be treated the same. For the Chief Minister to get up and say, "In the case of the Legal Aid Office there are these reasons why they should be excluded, but in the case of the Director of Public Prosecutions those reasons do not exist", is to deny the truth. The cases are the same.

I believe that the position of the Opposition is consistent and it is logical. The staffers of neither of these statutory offices should be subject to direction or instruction, except from the Minister through the chief executive. We believe that the positions should be identical. The Government's position is illogical and cannot be sustained. For that reason I urge members of the Assembly to reject this amendment and to look very closely at the slightly different amendment to be put forward by the Leader of the Opposition, which is consistent. Our proposed amendment recognises the similarity of the staffs in the two positions. It recognises that the Minister, if he or she is so disposed, can issue a directive to the two statutory offices, or either one of them, if there is such a serious situation that that is warranted; but it removes the possibility of undue interference in the business of either of those statutory offices through the staff that are engaged in the organisations.

Madam Speaker, I think that the logic is irrefutable. The facts are that the staff of either of these offices are in exactly the same position, and they should be dealt with in exactly the same fashion. In our view, the only way that the situation can be decently treated is for both offices to be excluded from this definition, and then the consequential amendments that flow from that can be put into effect in this Bill and in the Public Sector Management (Consequential and Transitional Provisions) Bill.

**MR LAMONT** (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (11.39): Madam Speaker, the Legal Aid Commission is covered by its own Act. It is proposed, for that reason, to treat the Legal Aid Commission as a distinct and discrete entity. Quite simply, that is the position which has the support of the majority of members of the Assembly. The proposal that the DPP's Office also be an autonomous instrumentality also has the support of the majority of the members of this Assembly. That, Mr Kaine, is

the reason why they are being treated in the way that they are. The simple reality is that discussions have been held between the parties of this Assembly. That debate has been held and the outcome has been reflected in the proposition that has been put to the Assembly this morning. I believe that it is consistent for us to proceed in the way we are.

**Mr Kaine:** I raise a point of order, Madam Speaker. The Minister is putting forward the proposition that because he has had discussions elsewhere the debate is over. He is anticipating the debate that should honestly take place here. Should he not be drawn to order and told that the debate on this matter is properly taking place here, and not in some other place with a limited number of participants?

**MADAM SPEAKER:** I do not really think so, Mr Kaine; but I am sure that Mr Lamont will take on the spirit of what you are saying.

**MR LAMONT:** Madam Speaker, we have here two organisations which are fundamentally different in the nature of the work that they undertake. I think that that was the subject of the debate that was held, and not only in the round table processes that were undertaken over the last week. The issues and the differences between the DPP's Office and the Legal Aid Commission were outlined in the in-principle debate that was held in this Assembly. My colleague the Attorney-General obviously will wish to speak further on this matter, for I think we need to lay to rest the furphy that Mr Kaine is trying to perpetuate. The simple reality is that they are different. The simple reality is that even Mr Kaine, when he was in government, recognised the difference between the Legal Aid Commission and the DPP.

**Mr Kaine:** No, I did not.

**MR LAMONT:** Yes, you did, because you brought in the Bill and set it up, Mr Kaine. I can understand why you may be embarrassed about that. Maybe your short-term memory is deserting you on that fact, but even you recognised the differences between those two organisations when you brought in the Act. We are now reflecting the will of this Assembly in the legislation that is before us this morning.

**MR HUMPHRIES (11.42):** Madam Speaker, I support the position that Mr Kaine has outlined in the Assembly - that is, that the Assembly should reject the amendment of the Government in favour of the amendment to be moved by Mrs Carnell. Clearly, the Government has acknowledged some arguments in the last 24 hours, which it has not acknowledged in the past, by moving to change the position both of the Legal Aid Commission and of the Director of Public Prosecutions, and that is to be welcomed. Frankly, I do not believe that we have come far enough on the question of the DPP.

**Ms Follett:** He does.

**MR HUMPHRIES:** Who is "he"?

**Ms Follett:** Mr Crispin.

**MR HUMPHRIES:** Madam Speaker, the submission that I received from him did not quite indicate that. The submission that I received from Mr Crispin, which I think was sent to all members of the Assembly - a supplementary submission, I gather, to the public service committee that Mr Kaine chaired, and now chairs again - made it clear that his preferred position was to be outside the public service structure altogether, and not be subject to any of the controls which even an autonomous instrumentality was subject to. He indicated in the submission that he would accept, as a compromise, as a very much second-best option - the idea of being an autonomous instrumentality within the structure of this Bill. For example, I will read from his conclusion:

The best and safest course would be to take literally the apparent intention of the Assembly of including in the original Director of Public Prosecutions Act the provision that the Director "shall control the Office". This should be given real effect by excluding the staff from the Public Sector Management Act and placing administrative and personnel decisions under the Director's authority.

Madam Speaker, that is the proposal that he put forward. I accept that he is relieved to find himself in a position of not being entirely within the public service, but I think the position outlined in Mrs Carnell's proposed amendment is infinitely preferable.

The problem with the present position is that it still leaves the director subject to ministerial direction. We have all observed debate in other places about the interaction between that Office of the Director of Public Prosecutions and the political masters of administrations around the country. We know from bitter experience that there is great potential for conflicts of interest to arise where a Director of Public Prosecutions is beginning action either against a Minister or a government. These have happened. I think that at present at least two former Premiers of Western Australia are subject to prosecution. We saw the prosecution of a former Premier of Queensland. There has been conflict between the Director of Public Prosecutions and the Victorian Government. So there are plenty of precedents for us to look to, to realise that we have a real problem potentially in this area.

It is clear that you remove the problem by addressing the question of the level of direction and control that the administration has over the Director of Public Prosecutions. It might not necessarily apply just in a case where a Minister is being sued. It may apply where a member of his or her government is being sued. It may apply where a member of his party is being sued, or where a member of his administration is being sued or prosecuted. In each of those cases there is both the potential and the perceived potential for a conflict of interest to arise, and it is important, I believe, that the Assembly prevent that from being a possibility under the framework of this Bill. We do so by making him outside the structure of the public service altogether.

I understand that the staff of the Office of the Director of Public Prosecutions are happy with that position. The DPP has indicated that his staff have no problem with being in that position. I believe, Madam Speaker, that we would be best serving our community by preserving a situation where there cannot be that conflict. I emphasise that it is not just a question of whether that conflict actually arises, but whether it could be perceived to have arisen. Consider the situation where a prosecution has been launched against

a key figure in the government of the day's circle, and then the DPP makes a quite appropriate decision not to proceed with such an action or not to entertain a suggestion that action should be commenced. If he does so, with a provision of the kind that the Government now proposes to insert in the Bill in place, whereby he is subject to direction by the Attorney-General, the question will arise as to whether he has made that decision because of the facts of the case, or whether he has made the decision because he is being leant on by the government of the day. I do not want to be in that position of that perception even arising. I think we are best advised to take the suggestion made by Mrs Carnell and put the DPP's position right outside the public service altogether.

**MR MOORE** (11.48): Madam Speaker, I think the real test of whether this is appropriate with reference to the Director of Public Prosecutions is whether the Director of Public Prosecutions is happy with it. The Director of Public Prosecutions has made it very clear that he is able to express his opinion, and will express his opinion, even when it is contrary to the Government's. When I spoke to him yesterday, Madam Speaker, after his negotiations with the Government, I made it very clear to him that, if he so wished, I would continue to support the original version, or his most preferred position as he put it in his original letter to us and to the committee. I knew that Ms Szuty also would continue to support that position. In other words, he knew quite well that he had the choice of going to the position that the Government had presented and that he had negotiated or having greater independence. In the final analysis, the Director of Public Prosecutions is quite capable of making his own decision. Knowing that both options were available to him, he determined that the negotiations with the Government were satisfactory, and that is a satisfactory position.

That is why, Madam Speaker, I have been prepared to change my position since our round table discussion on Monday. The Director of Public Prosecutions made it quite clear to me that this is an acceptable position to him, and it does have considerable benefits for, particularly, the non-legal staff in his office. That is probably why he has accepted this position rather than going for a position similar to that of the Legal Aid Commission. So, Madam Speaker, I find this amendment appropriate under the circumstances.

**MR CONNOLLY** (Attorney-General and Minister for Health) (11.49): Madam Speaker, I have not intervened in this debate to date; but I think it is important that, as Attorney-General, I do so now, as we are coming to this core issue of the independence of legal agencies. I want to put to bed some myths that have been emerging with some fairly hysterical advertising that is going on around the Territory.

When the Public Sector Management Bill was in its early stages the Government had to make decisions about where to put the various legal agencies - whether we would have a statutory authority model or whether we would bring them under the core public service. In relation to the Legal Aid Commission, we had in effect a statutory authority model that had a separate basis of employment. We looked at the position in other States in Australia and there was a clear distinction there, with the smaller jurisdictions electing to start their Legal Aid Commission under the Public Service Act and the larger jurisdictions electing to go for a separate employment model. We have a small jurisdiction and it is a comparatively small office.

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Professionals and support staff would be looking for career opportunities not just in the Legal Aid Commission but also in other areas of government employment. The next career move for support staff almost certainly would not be in the Legal Aid Commission. We took the view that we would adopt the model that applies in some smaller States.

There is all this hysteria and all this talk about infringing the independence of the Legal Aid Commission. I have never heard it suggested by any political party that the legal aid commissions in Tasmania or the Northern Territory, which operate under a public service model, are in some way any less vigorous in their defence of citizens or are subject to interference in any way. I have never heard Labor oppositions or Liberal oppositions make those claims about the legal aid commissions in those States. To suggest that the move that we had originally proposed and which we have now resiled from was somehow a sinister attempt to interfere with the independence of the Legal Aid Commission is mere stuff and nonsense.

I would also point out that in this year's budget we have again increased funding for the Legal Aid Commission. We are the jurisdiction that most generously funds the Legal Aid Commission. A lot of legal aid staff in a lot of parts of Australia accuse governments of attempting to interfere with the legal aid commission. The charge usually is that governments are quietly chopping their funds, to ensure that the legal aid commission cannot get out there and vigorously provide defence of citizens. In the ACT our record on the financial side is very sound. We have the most generous level of Territory-sourced or State-sourced funding to a legal aid body in Australia. Our decision to go originally for the public sector model of employment was made simply because it looks better for us to go with the small State model rather than the large State model. The Assembly has taken a different view.

In relation to the DPP, we had a lot of stuff and nonsense from Mr Kaine suggesting that it was outrageous that we were distinguishing between the DPP and the Legal Aid Commission and that we should be consistent. Mr Kaine, there has been an amazing transformation on the road to Damascus from the time that you and Mr Humphries, who reiterated the same material, were sitting around a Cabinet table drafting the DPP Bill, because it was your Bill. It was an Alliance Government Bill. The Alliance Government took the decision, a quite correct decision - we supported you on that Bill - to create a DPP but to staff it under the Public Service Act. There was no proposal when you created that DPP Bill - - -

**Mr Kaine:** That was four years ago. A lot of things have changed since then.

**MR CONNOLLY:** "Things have changed", he says. You did not propose a separate basis of employment; nor should you have proposed it. It would have been an extraordinary proposition. In every jurisdiction in Australia the DPP is created as an independent office-holder but the staff come from the public service. That is the model that you chose. That is the model that you introduced into this Territory. It is a good model and it is a model that we sought to continue. The pious puffing of the chest and

speeches about independence and how we are somehow compromising independence are shown to be nonsense when it was your Bill and your model that we are simply seeking to continue with, and the structure of a DPP that is staffed under the public service is a structure that applies throughout Australia. Nobody has gone to an alternative model.

In spite of the nonsense, I am pleased that Mr Humphries refrained from suggesting that there had ever been any interference with the independence of the DPP. The DPP has certainly made that very clear himself. In every annual report that has come before this place it has been made very clear that there has not been any attempt to interfere with his independence. This Government has a very proud record in defending the independence of the judiciary and the appropriate legal aid and DPP bodies. We are the only jurisdiction at the State or Territory level in Australia that has come into a parliament and sought to put through a resolution leading to legislation to entrench in our constitutional instrument, in our self-government Act, the independence of the judiciary. No government in Australia at the State level has done that apart from this Territory's Labor Government. To suggest that there is somehow a plot to interfere with the independence of the judiciary or the legal arm of government is really too offensive to even deserve serious comment.

I wanted to intervene to make the point that the DPP model that we brought before the Assembly and which Mr Kaine says is fundamentally flawed is in fact simply continuing the model that he chose. He made a decision, when his Cabinet introduced the DPP legislation, not to create a separate basis of statutory employment for employees in the Director of Public Prosecutions' Office. It was the right decision, but you made it. To come in here now and suggest that that is fundamentally wrong in principle does require a leap of faith and of the imagination that only a Liberal politician would be capable of.

**MR KAINE (11.55):** I think that some of the nonsense just put forward by the Attorney-General needs to be refuted. The DPP is in love with himself a bit and some of the words he uses are a little bit over the top. He talked about hysteria. I have not seen any hysteria. This matter has been discussed, in my view, very moderately. I do not know what the Attorney-General's definition of hysteria is, but I have not seen any evidence of that. I have not seen it at the political level, and I have not seen it at the administrative level. So I do not know whom he is talking about when he is accusing someone of being hysterical.

He attributed to me the word "outrageous". I did not use that word. Madam Speaker, I thought that I put forward to the Government a very logical, unemotional argument that they should reconsider their position. It was not hysterical. It was not outrageous. I did not use the word "outrageous", and I do not believe that my speech was outrageous. There was no puffing of the chest. These are Mr Connolly's words. He thinks that by throwing these words out he defeats the argument. He does not.

**Mr Moore:** I raise a point of order, Madam Speaker. I do not understand Mr Kaine's speech and I am seeking to clarify something. He started by saying that the DPP is in love with himself, and then he has argued that it is the Attorney-General. I wonder whether he meant to say "the Attorney-General" rather than "the DPP".

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**MR KAINE:** I did. If I said "the DPP" I meant "the Attorney-General". Thank you for correcting me. The Attorney-General says that nobody has complained; that there has been no interference. That is blatantly untrue. The DPP has complained and he has alleged interference. All the Attorney-General has to do is to read the select committee report that was put to him only last week. The DPP has said that, in terms of determining what staff he needs, what those staffers ought to be, how they ought to be employed and what they ought to do, he has suffered interference in the performance of his duties. The Attorney-General might shrug that off and say that it does not matter; but it certainly does, because it impacts very significantly on the ability of the DPP to do his job. Mr Connolly is not even interested in the facts. If he is interested in them he just wants to shrug them off and say that they are irrelevant. They are not irrelevant.

I would like Mr Moore to listen carefully. Mr Moore said that the DPP told him that he was satisfied. There are degrees of satisfaction. The DPP did put forward that his preferred position was to be totally independent. His fall-back position, which he was extremely dissatisfied with and did not particularly like, was that if all else fails he will settle for the position put forward by the Government. To say that the DPP is satisfied is a purely relative thing. The DPP wanted to be independent. If you are talking about satisfaction, I would like to know just how satisfied the DPP is. When you talk about interference and about government putting pressure on people, one would have to ask just how much even latent coercive power was used to persuade the DPP to accept less.

**Mr Connolly:** Come on! That is grubby.

**MR KAINE:** Look at the puffing of the chest now and listen to the outrageous hysteria. It will come from the Minister in a minute. He will get to his feet and he will go over the top. The Attorney-General often talks about perceptions. We have a public officer, a statutory officer, who put his preferred position to a select committee of the Assembly. That preferred position has been set aside by the Government. Is the DPP going to come out publicly and say that they are wrong? Of course he is not. He is a statutory officer and he is subject to a direction by the Attorney-General. We are talking about whether the DPP is satisfied or not.

Mr Moore does not even want to listen. I asked him to listen carefully to what I am saying. He turns his back on me and he goes and consults with one of the Ministers. It is easy to see where his directions are coming from. He is not the slightest bit interested in any argument that might cause him to rethink his position and change his mind.

**Mr Moore:** I am very interested.

**MR KAINE:** I appreciate your attention, Mr Moore. I thank you for it. I hope that you do not mind if there is a little bit of cynicism in my voice. I believe that the Government's position is wrong. Mr Connolly says, "This is the model that you, Mr Kaine, put into place". Certainly it is, but I have since heard evidence from the DPP that it is not good enough. I am prepared to have an open mind and to have the DPP tell me that the model I put in place is not working and needs to be changed. The Government does not have the decency to have the same open mind. They have a closed mind, and Mr Moore is helping them keep it closed.

I do not know what "satisfaction" means. I expect that if I sat down now with the DPP, in the light of what is happening here, he would express to me the same view as he did as a witness before the select committee only a few weeks ago, and his preferred position is not the position that the Government is providing him with in this legislation. Mr Moore, I suggest that you read the select committee's report or talk to your colleague who sat there and heard the evidence put. I am sure that she will tell you that this is not the DPP's preferred position.

**Ms Szuty:** It is now.

**Mr Moore:** But it is now.

**MR KAINÉ:** No, it is not now. He has accepted second best.

**Mr Moore:** But he had the choice.

**MR KAINÉ:** One of the reasons why he has accepted second best, no doubt, is that you gave him a clear indication that you were supporting the Government and it did not matter what he wanted. He is accepting second best because he knows that the Government has the numbers and it does not matter what he thinks.

I must say that I am quite disappointed. I did think that Mr Moore might listen carefully to what I had to say. He obviously does not give a hoot. Once again he has tied himself to the Government's position. He has not thought it through, and he does not intend to think it through. He does not care whether the DPP's Office is run most efficiently and effectively in the public interest or not. He is quite prepared to accept blindly the Government's position. I submit that Mr Connolly, the Attorney-General, needs to think carefully about the words that he uses and the facts of the case when he gets to his feet, instead of just jumping up and down like a yoyo and letting his mouth run freely, which is what he just did. I would hope, Mr Moore, that you would consider what I just said. I do not believe that the DPP is happy. He has settled for something less than what he would have preferred. He might be happy to still have a job, but that is not to say that he is exceedingly happy about what is being imposed on him in this Bill.

**MR MOORE:** Madam Speaker, under standing order 47, I would like to explain something that I believe has been misunderstood or misrepresented.

Leave granted.

**MR MOORE:** Thank you, members. Mr Kaine indicated in his speech that I was not listening to him. Had he listened to me, or had he understood what I had said, he would not have spoken in the way he did. I will clarify what I said. Yesterday, since the Director of Public Prosecutions spoke to the committee, I made it very clear to the Director of Public Prosecutions that the Government did not have the numbers to proceed and that, should he wish to have what he had presented to the select committee as his first

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preference, if he still wished to proceed down that line, it would happen. He could still do so. He made a choice. He indicated to me that he had made a choice to accept the position that the Government had put, because further information, I presume, had been presented to him. Madam Speaker, if Mr Kaine had been listening carefully, and I hope that he is listening now while I clarify that decision, as of yesterday the DPP had that choice in front of him. He has made the choice, with that knowledge.

**MR STEVENSON (12.04):** Madam Speaker, it is important and proper that we discuss the independence of such groups. There should be no suggestion that that is not right. This is one of the most vital areas that we could discuss, because of the accountability factor and the law. There is no doubt that the DPP had a strongly preferred position that his area be independent of this Public Sector Management Bill. He did have a fall-back position, as Mr Kaine mentioned. It was not his preferred position.

I am surprised about Mr Moore's report that the DPP has changed his preferred position. Unfortunately, I have not had an opportunity to discuss it with the DPP since I discussed it with him yesterday. This is one of the many concerns that we have in moving the Bill through so rapidly. If the debate had been adjourned I would have had time to discuss the matter again with the DPP. If he has knowingly and willingly changed his earlier preferred position to another position, I am perfectly happy to agree with that. I have not had the opportunity to discuss it and I think that is unfortunate.

Mr Connolly mentioned how things operate in Tasmania and said that he has never heard of any concerns about independence. That reminded me of a New South Wales public health official who reported to a council inquiry into fluoridation. They were looking at the cancer connection of fluoride. She said that two senior research scientists in the CSIRO had not found any correlation between cancer and fluoride. It came out later on that they had not found any connection, but I have seen statements from the two senior research scientists saying that they had never looked for one. They probably had not found connections with hundreds of things they had never looked for either.

I do not disagree with the Attorney-General's statement, but if he is presenting such a viewpoint it would be handy to know whether he has had discussions with relevant people about this matter and found that not only were there no concerns but that it was working well. If he has an opportunity, he might say that rather than simply saying that he has not heard of any concerns. The point is: Were there any voiced? While we agree that the DPP or certain people within some bodies should be exempt, is it okay for their staff not to be exempt? I have never quite gotten around the independence factor. If you say that it is important for part of the service to be independent but not for their staff to be independent, I can think of many situations where that would conflict. I would have liked a greater opportunity to go into that matter.

Mr Connolly says that there were hysterical claims about independence. I presume that one of the factors he was talking about was the advertisement that appeared in the paper. Mr Connolly nods. It is important to look at who put their names underneath that advertisement. There was certainly a representative of ACTCOSS. Perhaps it was the first time that those groups had been linked on anything. It is unfortunate that Mr Connolly calls that action hysterical. It is vital that there is independence in these areas, and the Government has not said otherwise. They say that it is important.

All they say is that what they are doing allows that independence, and that is what we are talking about. It is proper that we do talk about that. It is unfortunate that we are moving through this matter immediately and that I have not had time to check on the DPP's decision as Mr Moore reports it.

**MRS CARNELL** (Leader of the Opposition) (12.09): I move my revised amendment No. 1 circulated in my name which proposes amendments to Ms Follett's amendment No. 1. My amendment reads:

1. Omit paragraph (b), substitute the following paragraphs:  
"(b) the Australian Capital Territory Totalizator Administration Board;  
(c) the Australian International Hotel School; or  
(d) the ACT Fire Brigade."

Madam Speaker, my amendment allows ACTEW to stay under the definition of autonomous instrumentality but then adds the Australian Capital Territory Totalizator Administration Board, the Australian International Hotel School and the ACT Fire Brigade. I do that for very good reasons. We only have to look back at the speeches that Ms Follett made when she tabled the various pieces of this Bill. With regard to ACTTAB, the comment was that ACTTAB would be left out of the Bill until 1 January 1995 pending Professor Pearce's inquiry, which was current. Professor Pearce's inquiry is over. It has been over for a few weeks. It seemed no trouble whatsoever for the Government to change its position on the DPP and the Legal Aid Office in one day, but it seems that their position on ACTTAB still is unclear. Our view right now is that, because it has been such a difficult time for the people working for ACTTAB, for the staff and for the administration generally, their position should be clarified and they should be moved in under this particular provision at this stage.

I will be interested to hear - I am sure that Mr Lamont will be happy to tell us - what the Government's plans are for 1 January 1995, because Ms Follett did not actually say in her speech what she was going to do. She suggested that provisions would commence. She did not quite tell us what provisions. We will be very interested to find out where ACTTAB is to be put on 1 January 1995. We believe at this stage that it is very important that ACTTAB's position be well laid out. With regard to the Australian - - -

**Mr Lamont:** Yes. Is that why you spoke to Mr Downy last Thursday afternoon?

**MRS CARNELL:** I speak to anybody I like. I am sure that you spoke to him yesterday.

**Mr Lamont:** Last Thursday afternoon.

**MRS CARNELL:** After he put out the press release.

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Members interjected.

**MADAM SPEAKER:** Order! Mrs Carnell has the floor.

**MRS CARNELL:** Thank you, Madam Speaker. The second part of our amendment is that the Australian International Hotel School should be defined as an autonomous instrumentality under this Bill. It was very interesting to read the piece of Ms Follett's speech with regard to the school. She suggested that the hotel school will be left out until Cornell University signs, and then we will move it in. That is exactly what this says. I quote:

The Government believes, in principle, that these staff should become members of the new service under equivalent provisions, but wishes to assess in more detail the implications of that move ...

And so on. It seems quite definite from comments that have been made by various people that all this is about is waiting until Cornell University signs the agreement, and then the Government - - -

**Mr Lamont:** Are you trying to sink that one too?

**MRS CARNELL:** I am reading from Ms Follett's speech.

**Mr Lamont:** You are trying to sink the New South Wales TAB link. Now you are trying to sink the Cornell link.

**MRS CARNELL:** Ms Follett's own speech says that, Mr Lamont.

**Mr Lamont:** You are trying to sink the Cornell link.

**MRS CARNELL:** Absolutely not. That is the reason why we believe that this should be included here as an autonomous instrumentality - to make it very clear that we are not planning to bring this area directly under the Public Service Management Bill; that we plan to give it some autonomy. We believe that the whole Bill should create substantially more flexibility, and our amendments mirror that approach.

With the ACT Fire Brigade, Ms Follett's explanation was that it was because they wear uniforms - a very interesting argument - and because they operate in a "disciplined uniformed service". Somehow this means that the Fire Brigade should be left right out of this Bill. Nurses wear uniforms. They certainly do not operate under - - -

**Mr Kaine:** So do bus drivers.

**MRS CARNELL:** So do bus drivers, yes. They do not operate under what would be regarded as a normal public service culture. They operate under a very different set of professional ethics. Even teachers do not operate under normal - - -

Members interjected.

**MADAM SPEAKER:** Order! Mrs Carnell has the floor.

**MRS CARNELL:** Thank you very much. The arguments that the Chief Minister has put forward about the Fire Brigade simply do not hold water. If they did, then there would be - - -

Members interjected.

**MRS CARNELL:** Madam Speaker, is it possible - - -

**MADAM SPEAKER:** I will note your request for order, Mrs Carnell.

**MRS CARNELL:** Thank you. If the Government is planning in any way to be consistent, the ACT Fire Brigade should be brought in under this autonomous instrumentality part of the Bill.

**Ms Follett:** No. Under the Bill.

**Mr Lamont:** They will be under the Bill.

**MRS CARNELL:** Do it now, or, alternatively, do not debate this Bill. You have said that you are ready to debate this Bill today. You have said that it is all ready; it is all fine; we can go ahead today. Now you are saying, "We have not quite made up our mind on it. We have not quite made up our mind on the Fire Brigade. We have not made up our mind on the hotel school. We have not made up our mind on ACTTAB. We have not made up our mind on all of these areas". Does that not show - - -

**Mr Kaine:** But you are damn certain about the rest.

**MRS CARNELL:** But you are so sure about the rest. You are so sure that you are willing to go ahead with a Bill that obviously is not ready to be debated. We believe that to give these areas some confidence about their future they should be brought in under this particular part of the Bill. We are concerned, though, that autonomous instrumentalities under this Bill are not defined. There is no definition of what an autonomous instrumentality is, except that it is one of these things. To work out what it is, you have to go through the whole Bill. We believe that that, in itself, shows that the Bill is badly drafted and flawed.

**MS FOLLETT** (Chief Minister and Treasurer) (12.17): Before addressing Mrs Carnell's amendment, I want to address some issues that were raised in the debate on my amendment. I particularly want to address some of the grubbier remarks made by Mr Kaine. I do not believe that they should be allowed to pass. Mr Kaine asserted in the course of his remarks that the Government had "leant on" - those were his words - the Director of Public Prosecutions.

**Mr Kaine:** I did not say that at all. I just raised the question of the perception that you might have.

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**MADAM SPEAKER:** Order!

**MS FOLLETT:** Mr Kaine asserted that the Government had "leant on" the Director of Public Prosecutions to accept the Government's position on the coverage of the DPP under this Bill. Nothing could be further from the truth, Madam Speaker. Had Mr Kaine not let his ill humour run away with him, it would have been perfectly obvious to him that the Government was, firstly, in no position to lean on anybody. We, quite clearly, did not have sufficient votes on the floor of this Assembly to have our view on this matter prevail.

Madam Speaker, it was very clear, from the beginning of the debate on this issue, that the majority of members of this Assembly wished to have the DPP treated differently from the way first proposed by the Government. We heard from Mr Moore that he had put to the Director of Public Prosecutions whether he wished to proceed with the autonomous instrumentality provisions or do something else. We heard from Mr Moore that the DPP wished to proceed with the autonomous instrumentality provisions. Clearly, Madam Speaker, Mr Kaine does not believe Mr Moore. I do. I do because, first of all, I have found Mr Moore to be an honourable man. I also have before me the correspondence between Ms Webb and Mr Crispin. This goes to another issue raised by Mr Kaine, of how happy Mr Crispin was. I can inform you, precisely, how happy Mr Crispin is about the new provisions, Madam Speaker. I will quote from this correspondence. Mr Crispin said to Ms Webb, on 21 June:

I have examined the proposals and am generally satisfied as to their adequacy.

He went on to raise two issues which he wished Ms Webb to clarify further. Those issues were, first of all, whether or not he could create a class of employee entitled Public Prosecutor remunerated at around the SES Band 1 level. The second issue Mr Crispin addressed was whether there was the power to impose conditions in relation to temporary employees under clause 108(4) or whether that needs amendment. Those were the only two issues raised by Mr Crispin. Ms Webb responded to Mr Crispin and said:

I am advised that Sections 80 and 108(4) contain powers that will be available to you as an autonomous instrumentality ...

Hence, the Bill does not need further amendment. Mr Crispin concluded his letter of the 21st with these words:

Subject to these matters -

that is, those two matters which we now know have been satisfactorily resolved -

and, of course, to the precise terms of the amendments proposed I am happy to agree to the Government's proposals.

Madam Speaker, I take him at his word.

Another very grubby assertion that Mr Kaine made in the course of his remarks - it was surprisingly grubby - was his assertion that the Government had somehow interfered with the independence of the DPP. Again, nothing could be further from the truth. Mr Kaine has deliberately tried to confuse the legitimate and legal aspect of the DPP's role, his prosecutorial role, with other matters. He has tried to link the present public service control of staffing of the DPP with interference in the legal role of the DPP. That is simply not true and it is not a valid assertion to make.

Madam Speaker, it is the case that the DPP today, prior to the passage of this Bill, is staffed under the Public Service Act, as Mr Kaine established it to be. To the extent that that imposes discipline and constraints upon any instrumentality, yes, the DPP's Office has been under that discipline and those constraints, as Mr Kaine set it up to be. But to assert, as Mr Kaine did, that that somehow involves the Government in interfering in the legal matters being dealt with by the DPP is quite false and very misleading, and that was the clear import of his assertion. Madam Speaker, I find it very disappointing that Mr Kaine made those points.

The fact of the matter is that when the DPP becomes an autonomous instrumentality there will be two main benefits. The first is that the DPP, himself or herself, will be able to operate as the Commissioner for Public Administration operates in relation to other departments. In other words, they have a very high level of control over their own staffing matters. That is an advantage that, quite clearly, the DPP seeks, if you read his letter. He will be in charge of hiring and firing. He will be able to classify positions as he sees fit. He has that authority as an autonomous instrumentality.

The other big advantage - I give the DPP the benefit of perhaps having had second thoughts about this - of the autonomous instrumentality route is for the non-legal staff of the DPP's Office, the general staff. Not only will they enjoy the conditions and rights of other public servants; they also will have full mobility in their career choices - something which you would deny them by removing them altogether from the jurisdiction of this Bill. I believe that that is an advantage that we should take seriously, and I believe, Madam Speaker, that it is not altogether unlikely that the DPP also has seen the merits of that proposition.

I want to address the remarks that Mrs Carnell made in moving her amendment. Mrs Carnell's amendment addresses a number of other organisations. The first one that she mentioned was ACTTAB. To clarify the situation for members, as it appears that at least one of them does need clarification, Madam Speaker, the intention of the Government is that ACTTAB will be brought under the jurisdiction of this Bill on 1 January 1995. Let us be perfectly clear about that - 1 January 1995. In fact, Part 8 of Schedule 1 of the Public Sector Management (Consequential and Transitional Provisions) Bill establishes that. It is on page 17 of the Bill. There is no mystery about it. That is our intention.

It is also equally clear, Madam Speaker, that, as a result of the Pearce inquiry, and subsequent to the Pearce inquiry, there have been some disruptions in the TAB. It is the Government's view that that ought to be given a chance to settle. We are equally clear that the staff at the TAB need to be brought under this Bill so that they also can enjoy the benefits of being within the Territory single employer status. There will be greater

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efficiency there through the commonality of many of the functions and public sector reforms. They can enjoy the benefits of being brought within the public sector reform agenda which will be applied across the board. There is also, importantly, equity for the staff involved. I think that is an important issue, as is the issue of their careers and the increased mobility that those staff will have when they are brought under the Bill.

Madam Speaker, ACTTAB is a monopoly operator in this Territory. It is a very significant source of government revenue. I believe that the Government has a legitimate role to play in its management through our employment policies, much as we do in any other area of policy. The six months' delay in proclaiming the ACTTAB provisions in the consequential provisions Bill will allow the Government to fully consider the implications of the Pearce report, and that will include the administrative and employment aspects of ACTTAB's own operations. ACTTAB employs only some 30 full-time workers, only about 30 staff, and for that reason, because it is small, I do not believe that it is in their best interests for ACTTAB to be made an autonomous instrumentality. It has much less diversity of workers and they are primarily office based workers. I believe that giving them the opportunity for greater mobility is very much to their advantage.

Mrs Carnell also raised the issue of the International Hotel School. Again we see an attempt by the Leader of the Opposition to spoil the efforts by the Government to provide a best outcome for this Territory. We see it over and over again with Mrs Carnell. The Opposition's amendment, Madam Speaker, would declare the hotel school to be an autonomous instrumentality - cut and dried, done, over with today. That would mean, first of all, that the agency would not be staffed under this legislation. I do not know why you would want to take that decision today, and I do not believe that members ought to. The Government's position is that we have not included the hotel school within the Bill because we need to conclude current negotiations with Cornell University. We will review our position at the conclusion of those negotiations.

Mrs Carnell wants to make it cut and dried today. She wants to take the decision today. She does not care what the impact is on that contract. Madam Speaker, it is certainly not a case of the Government saving up to spring some surprise on Cornell. Quite the contrary. That is exactly what the Liberals are trying to do. I simply make the point that, in respect of the hotel school, the inclusion of the staff within the new service is simply not a matter that we should decide or need to decide today. It is not the right time. The amendment proposed by the Opposition would change nothing and would preserve nothing, in fact, because we would have to legislate to bring in the hotel school staff. We will be opposing Mrs Carnell's amendment, and in doing so I believe that we will be acting in the best interests of tying up the future of the hotel school with Cornell University. That is a proposition that the Government will be pursuing actively.

Finally, Madam Speaker, Mrs Carnell referred to the Fire Brigade and why they are being left out of the service. They are being left out for one year. Let us be very clear about that as well. The Government's intentions are abundantly clear. The Fire Brigade will be coming under the jurisdiction of this Bill. Madam Speaker, we have decided not to bring them in immediately, as we have for ACTTAB and the hotel school. The Opposition, who do not even want to debate this Bill, want all of these bodies dealt with today, with no consideration. Madam Speaker, their position is absolutely two-faced, and that is why they are squirming and screaming the way that they are.

As far as the Fire Brigade goes, Madam Speaker, it is very clear that our intention is to bring them within the Bill, and they know that. Madam Speaker, we have been prepared to be a little bit tolerant, a little bit conciliatory, as we were with the DPP, in relation to the Fire Brigade as well, and to give them a year to work out how their service will operate. It is a disciplined and uniformed service, despite the slurs being thrown at them by members of the Liberal Party, and that factor makes them qualitatively different from some other areas of the public service.

Members interjected.

**MADAM SPEAKER:** Order!

**MS FOLLETT:** Madam Speaker, it has been indicated to us that the service requires some time to work out how best they can fit within this Bill. I am prepared to give them that time, as I have been prepared to be conciliatory with other bodies. Madam Speaker, we will be continuing negotiations on this matter throughout the early life of the new service, and I believe that that will allow the significant areas of difference between those two types of employment to be addressed.

Madam Speaker, I have made these comments to you amidst a barrage of interjections from members opposite. In fact, I have had to raise my voice in order even to hear myself, at times. If that is to be the style of debate by the Liberal Party, on top of their filibuster, if they are going to behave like an absolute rabble, I think it does not augur well for the rest of this day's work.

**Mr Kaine:** I raise a point of order, Madam Speaker. I take exception to that. What we have been trying to do so far is to carry on a rational, logical and unemotional debate. To be told that we are a rabble is unacceptable, I believe, and I want it withdrawn.

**Mr Berry:** Madam Speaker, that is hardly a point of order.

**Mr Kaine:** I have already taken a point of order. Sit down. I want a ruling from the Speaker, not from you.

**MADAM SPEAKER:** Order! Mr Kaine, I have ruled on many an occasion that a comment about the whole of a group is allowed. I do take your point of order, though, that you were not a rabble. When you are a rabble, I will call everyone to order.

**Mr De Domenico:** You are all a mob of hypocrites.

**Mr Kaine:** Thank you, Madam Speaker. I appreciate that.

**Mrs Carnell:** And you are all a mob of liars.

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**MADAM SPEAKER:** I would hope that there would be a better standard of behaviour all round, Mrs Carnell, and I would not have to call anyone to order. I am letting things go by because I am not here to check every single bit of action. It is up to members in this chamber to set their own standards. If you want to be called to order every five seconds, I will. Let us have a bit of order and sense.

Amendment (Mrs Carnell's) to Ms Follett's amendment negatived.

Amendment (Ms Follett's) agreed to.

**Sitting suspended from 12.33 to 2.30 pm**

**MS FOLLETT** (Chief Minister and Treasurer) (2.30), by leave: Madam Speaker, I move together amendments Nos 2 and 3 circulated in my name, which read as follows:

2. Page 3, line 14, subclause (1), insert the following definition:

"'criminal offence' means -

(a) an offence against a law of the Territory or the Commonwealth; or

(b) an offence against a law of, or of a part of, a foreign country, being an offence of a kind which if committed in, or within the jurisdiction of, the Territory would constitute an offence against a law of the Territory or the Commonwealth;"

3. Page 4, line 18, subclause (1), (definition of "non-appellable promotion"), add "not being an office for appointment to which teaching qualifications are required;"

Clause 3 is to be amended, firstly, to insert the definition of "criminal offence". A criminal offence is defined in my amendment as an offence against a law of the Territory, the Commonwealth or a foreign country. The definition is required in relation to discipline matters. I am actually relocating this definition from subclause 80(11) because it has general application. The second amendment concerns the definition of "non-appellable promotion" in subclause 3(1). I am proposing to amend the definition of "non-appellable promotion" by inserting at the end of it the words "not being an office for appointment to which teaching qualifications are required". Madam Speaker, this amendment is being made in order to accommodate special arrangements for appeals in the teaching service. I commend those amendments to the Assembly.

**MR KAINE** (2.31): Madam Speaker, in essence, the Opposition has no objection to these two amendments. We understand that the definition of "criminal offence" has been brought forward from section 80, and we understand why that is the case. We have no objection to the preservation of the existing rights of appeal for teachers. In connection with the first amendment, the second part of the definition refers to "an offence against a law of, or of a part of, a foreign country". Perhaps the Chief Minister or the Attorney-General can explain to us why that is necessary. It makes it an offence in the Territory if an offence is committed against the law of not only a foreign country but a part of a foreign country. I can envisage that the State of Ohio in the United States has a law and that an offence committed against that law can become an offence in the Territory. I do not understand why it is needed, and I do not understand how it works. Perhaps the Attorney-General could explain the technical intricacies of that.

**MS FOLLETT** (Chief Minister and Treasurer) (2.33): To clarify that for Mr Kaine, Madam Speaker, that definition has included reference to a foreign country just in case an officer of our service is serving overseas. They are required to keep the laws of the countries that they are in. I accept that this is drawing a long bow and that it is not terribly likely that we would be sending officers overseas on a regular basis. It is just to pick up that eventuality.

Amendments agreed to.

**MR STEVENSON** (2.34): I move amendment No. 1 standing in my name, which reads:

1. Page 6, lines 1 and 2, omit the definition of "Service", substitute the following definition: "'Service' means the Australian Capital Territory Public Service established by section 12;"

My amendment would change the proposed name of the public service from "Government Service" back to "Public Service". It simply changes one word, but I think it is a quite important matter. Let us look at the role of the public service. It is to serve the public. If we change the name to "Government Service", one could suggest that its role is to serve the Government. I am sure that that is not the intention of anyone here. It is not the intention of the public service, and it is not the intention of the people of Canberra. If we look at the Bill, on page 7, under "Values and principles", it says:

Government agencies shall have an objective of implementing the following values and principles:

- (a) service to the public;
- (b) responsiveness to -
  - (i) the requirements of the government; and
  - (ii) the needs of the public.

... ..

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Certainly, the Government is mentioned there, and, indeed, the public service should be responsive to the requirements of the Government. But look at what the Government is. After all, they are public servants and they are responsible to the requirements of the people - in our case, the people of Canberra. So, under "Values and principles", we come down to the fact that the public service serves the public. Let us look at one of the definitions of "public" in the *Shorter Oxford English Dictionary on Historical Principles*. It says:

Pertaining to the people of a country or locality.

Indeed, Canberra. It goes on:

Devoted or directed to the promotion of the general welfare.

That is a quite good definition. What a good definition of the role of the public service! If we look at the definition of "service", the dictionary says:

The action of serving, helping or benefiting; conduct tending to the welfare or advantage of another.

That is a nice definition relating to the public service. Those two words, "public" and "service", go together very well.

Why else is it important that we call the public service the "Public Service" and not the "Government Service"? Perceptions are important because out of perceptions and out of people's beliefs come resulting actions, sometimes over a period. There are three areas of perception that we need to look at here. Firstly, we need to look at the perception of people in the public service. Is it not valuable that they understand that, first and foremost, they serve the public? If we look at the perception of members of parliament, it is important that we understand that we serve the public, and no-one else. What of the perception of the public? Is it not important that we let them know that the public service serves them and not the Government? Is it not true that too many people in Canberra, let alone around the rest of Australia, feel that the public service does indeed serve the Government? We know that that is not true, and we should do everything we can to make sure that that erroneous perception is not held. One of the best ways we can do that is to make sure that we do not call it the "Government Service", because some people might get the wrong idea that they are supposed predominantly to serve the Government instead of the public.

I believe that the Government has no major concern about the definition, and I commend to all members what I feel is a very important point - that, when we talk of service under the definition and throughout the Bill, we do not mean the Australian Capital Territory Government Service, we mean the Australian Capital Territory Public Service.

**MS FOLLETT** (Chief Minister and Treasurer) (2.39): Madam Speaker, I am not about to die in a ditch over this matter because I believe that we all know what we mean. It is a case of "a rose by any other name", I suppose. There are a couple of points which I would like to make. The first of those is that, in the conventional sense, and based on the Westminster tradition, what we are dealing with in this Bill is, in fact, not a public service. Madam Speaker, the term "public service" generally includes the departments, but it does generally exclude statutory authorities and bodies of that nature. The term "public sector", a different term again, generally covers all of those - the departments, statutory authorities, government owned companies and so on; in fact, anybody who is paid from the public purse. So there are some definitional conventions which are generally used in public administration when looking at a Westminster model. What we have termed the "ACT Government Service" falls somewhere between the general public service and public sector definitions in that it does include government departments and some statutory authorities, but not our business enterprises and so on.

In practice it does not matter a great deal, but the particular title that we have drawn up for the Bill is also intended to assist in marking off the ACT service from the Commonwealth service. I think it is very important that there be that corporate spirit within the ACT Government Service. They do see themselves as an entity. They are known by a corporate name, and it is a name that could not readily be confused with the Australian Public Service, the APS, as opposed to what Mr Stevenson would refer to as the ACTPS. That definitional problem and the corporate identity problem have guided me in moving to the term "ACT Government Service".

If you look at the Bill you will see also that the terms I have referred to earlier are dealt with in the Bill. For example, in the section that Mr Stevenson referred to, under "Values and principles", the words there are:

Government agencies shall have an objective of implementing the following values and principles:  
...

The first one is service to the public. There is no doubt about the intention of this service that we are establishing. It goes on under the heading "General principles of public administration". Because this is a much wider reference, the broader term "public sector" has been used there to encompass all of the bodies. As I said, Madam Speaker, this is not a matter on which I will go to the wall, but there are good reasons for using the term "Government Service". I commend that term to the Assembly, for the reasons that I have set out.

**MR KAINE** (2.42): Madam Speaker, the Chief Minister has convinced me of the merit of the amendment put forward by Mr Stevenson. While she was speaking I was reading through the Bill and I found clauses 6, 7, 8 and 9, to which the Chief Minister alluded. The very purpose of this Bill is to bring people within the ambit of a common ethic and a common approach - people who were not previously brought together in such a way. The words that the Chief Minister has in her own Bill indicate that the total purpose and the sole purpose of this new entity is to serve the public. She herself used some of the words. Clause 6 says:

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Government agencies shall have an objective of implementing the following values and principles:

(a) service to the public;

... ..

Clause 7 says:

The public sector shall be administered with an objective of giving effect to the following principles: ...

The first one is:

(a) the public sector shall be administered to provide quality services to the public;

Clause 9 says:

A public employee shall, in performing his or her duties:

... ..

(d) treat members of the public and other public employees with courtesy and sensitivity to their rights, duties and aspirations;

... ..

The whole thrust of the thing is service to the public. That being the case, the title that Mr Stevenson is suggesting should go on the front of this Bill. It is very appropriate. For the Government to argue otherwise is again illogical and inconsistent.

**MS SZUTY (2.44):** I believe that I mentioned the issue of terminology, in particular whether we referred to the service as the "ACT Government Service" or the "ACT Public Service", during my remarks on the report of the select committee which looked at the public service or in the in-principle debate on the Bill in the Assembly last week. I cannot quite remember at what stage I mentioned it, but I am fairly sure that I did. This is not an issue that I have given a great amount of thought to. It came up at the round table discussions that a number of us had on Monday of this week. At the end of the day, if the Government wants to refer to this as the "ACT Government Service", I do not have a problem with that. I do take Mr Kaine's point that if we are referring to an "ACT Public Service" we have that concept of the greater good of the public in mind as well. On the other hand, by calling our public service the "ACT Government Service" we will establish that terminology as the terminology which relates to the public service in the ACT. At this stage I have no particular difficulty with it.

**MR STEVENSON (2.46):** Ms Follett mentioned that there is no doubt about the intention of the service, and that is to serve the public. We all agree on that. Ms Follett mentioned that, in a conventional sense, statutory authorities and other bodies are not normally included. However, is it not the role of these organisations, in each and every case, to serve the public? The answer to that is yes. There are other parts of government - semi-government authorities, et cetera - that are there to serve the public. Is it not good, and beneficial, to remind them as well that they serve the public? One could say, "But this is the intention of the Bill", and they would all read where it says "the public"; but I am talking about the very title "Public Service" as against "Government Service". Ms Follett put the strongest point that I could have made, but did not, when she said, "In fact, anybody who is paid from the public purse". That is the strongest reason why we should call it the "Public Service". All these authorities and bodies are paid from the public purse. Is it not just as important that they understand clearly from the name of the service that they serve the public and no-one else?

Another point that has been brought up is that it is going to be easier if we call it the "ACT Government Service" because people will be able to differentiate between the Commonwealth Public Service and the ACT public service. I suggest that for some considerable time, more than a few days or weeks, there has been no problem in this area. We have all known what the difference is. If you start calling public services "government services" the idea could catch on in the Commonwealth area. When they begin calling their public service "the government service", without even mentioning that they could get mixed up with the ACT Government Service, would we then change it back in order to cope with any difficulty in understanding which is which? I suggest that the answer to that might be no. One principle shines out here above all others as to what it is and what we should call it.

Even if there is some difficulty in understanding which service is which, and I am not suggesting that there is, that reason pales into insignificance when compared with the very important point that we should do all in our power to let the public know that we and the public service serve them. We could say to the hundreds of thousands of people who live in Canberra, "If you read the Public Sector Management Bill's definition of 'service', under 'Values and principles', clause 6, it says that government agencies, et cetera, serve the public". We could do that to the hundreds of thousands of people in Canberra, but I suggest that we will not. I would be surprised if more than a dozen or so ever found out about that. What they will find out, and what future generations will find out, is whether or not it is a public service or a government service.

I made the point earlier that perceptions are very important. Who would disagree that there are too many people in Canberra who feel already that in too many situations the public service serves the Government? It already happens. Let us do what we can to correct it, not perpetuate it. Let us call it the "ACT Public Service". Put simply, let us call it what it is.

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Question put:

That the amendment (Mr Stevenson's) be agreed to.

The Assembly voted -

AYES, 7      NOES, 10

Mrs Carnell    Mr Berry  
Mr Cornwell   Mr Connolly  
Mr De Domenico   Ms Ellis  
Mr Humphries Ms Follett  
Mr Kaine       Mrs Grassby  
Mr Stevenson   Mr Lamont  
Mr Westende   Ms McRae  
                  Mr Moore  
                  Ms Szuty  
                  Mr Wood

Question so resolved in the negative.

**MRS CARNELL** (Leader of the Opposition) (2.53), by leave: I move together amendments Nos 2, 3 and 4 circulated in my name. The amendments are as follows:

2.        Page 6, line 17, subclause (1) (definition of "Territory instrumentality"), paragraph (d), omit "or".
3.        Page 6, line 19, subclause (1) (definition of "Territory instrumentality"), paragraph (e), add "or".
4.        Page 6, line 19, subclause (1) (definition of "Territory instrumentality"), add the following paragraph:  
  
"(f)        an autonomous instrumentality;"

Madam Speaker, amendments Nos 2 and 3 facilitate the main amendment, which is amendment No. 4. Amendment No. 4 ensures that autonomous instrumentalities as defined under the Government's Bill actually have some autonomy. As members would be aware, currently, autonomous instrumentalities under the Bill are also Territory instrumentalities, or could be defined as such. Territory instrumentalities under the Bill are subject to control or direction by the Minister. For an instrumentality to be autonomous, it obviously cannot be subject to control or direction by the Minister. It is simply ridiculous to suggest that it should be. For an autonomous instrumentality to be what the Government's name suggests - autonomous - it is necessary to exclude autonomous instrumentalities from the definition of "Territory instrumentality". That is the basis of my amendments Nos 2, 3 and 4.

Autonomous instrumentalities need flexibility. I am sure that that is the reason why the Government has this as part of its Bill - to allow autonomous instrumentalities to operate in a way that is appropriate to the marketplace that they operate in. The marketplace is different, obviously, for the DPP and for ACTEW. What they both need is the capacity to make decisions and to get on with the task that they were set up to do, without interference and certainly without control by or direction from the Minister. By passing this particular amendment we will achieve that.

Having heard Mr Moore's comments on the DPP, it would appear that he also supports the need for the DPP, particularly, not to be subject to direction from the Minister. Certainly the Opposition, the Liberal Party, very much supports that approach. We want to make sure that these autonomous instrumentalities, as defined by the Government's Bill, cannot be used for the Government's own political purposes and really have a capacity to get out there and do the job that they were set up to do.

**MR LAMONT** (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (2.56): We oppose Mrs Carnell's provision. Mrs Carnell has proposed the omission of "or" from paragraph (d), line 17, and the inclusion of an additional paragraph so that an autonomous instrumentality is not included in the definition of "Territory instrumentality". That would mean that it would be outside the service. Madam Speaker, we have had this debate already this morning. I believe that it would be superfluous to continue it at any length this afternoon. We are opposing this provision on the same basis as we did this morning. I believe that that should be enough to conclude the debate.

Amendments negatived.

Clause, as amended, agreed to.

Clause 5

**MRS CARNELL** (Leader of the Opposition) (2.57), by leave: I move together amendments Nos 5 and 6 circulated in my name. They read as follows:

5. Page 6, line 34, paragraph (d), omit "or".
6. Page 7, line 1, add the following paragraphs:  
"(f) the Office of the Director of Public Prosecutions; or  
(g) the Legal Aid Commission (A.C.T.)."

Madam Speaker, amendment No. 5 facilitates amendment No. 6. I understand that Mr Moore is going to move an amendment to my amendment, and that is something that the Liberal Party would support. My amendment attempts to ensure that it is absolutely definite that the Legal Aid Commission is outside the service. It clarifies a position that

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the Government has supported. We believe that that is appropriate. The Government has said, as has everybody in this debate, that it is very important to ensure that all entities are aware of their position and that there can be no debate about that. This is what this amendment does. As you would be aware, in the first instance, the Liberal Party supported the DPP and the Legal Aid Commission being outside the service. Obviously, that is not an option now. I will leave the floor to Mr Moore.

**MR MOORE** (2.58): Madam Speaker, I agree with Mrs Carnell that it is appropriate to clarify this issue and to make very clear in the legislation our stance on this issue. For those reasons, I support Mrs Carnell; but, considering what has already gone through in this debate, it is inappropriate that we include the Office of the Director of Public Prosecutions. Earlier I circulated a possible amendment, Madam Speaker, that would replace Mrs Carnell's proposed amendment; but I think a much more effective way to do this is for me to move an amendment to her amendment. That is what is being circulated at the moment. Therefore, Madam Speaker, I move the following amendment to Mrs Carnell's amendment No. 6:

Omit paragraph (f).

Amendment (Mr Moore's) to Mrs Carnell's amendments agreed to.

Amendments (Mrs Carnell's), as amended, agreed to.

Clause, as amended, agreed to.

Clause 8

**MS FOLLETT** (Chief Minister and Treasurer) (3.00): Madam Speaker, I move amendment No. 4 circulated in my name. It reads:

4. Page 8, lines 15 and 16, paragraph (e), omit "administrative units or Territory instrumentalities", substitute "government agencies".

This is just a tidying up exercise, members. It is simply a matter of improving the text - an editorial amendment - and I commend it to you.

**MR KAINE** (3.00): Madam Speaker, the Opposition does not oppose this amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 12

**MRS CARNELL** (Leader of the Opposition) (3.02): I move amendment No. 7 circulated in my name. It reads:

7. Page 10, line 17, after subclause (2), insert the following subclause:

"(2A) The staffs of the autonomous instrumentalities do not form part of the Service."

Madam Speaker, I will speak only briefly. Taking into account the votes of the Assembly on this issue before, I fully appreciate what will happen with this one as well. This amendment was put forward in an attempt to allow the staff of particular autonomous instrumentalities to focus on things that appear not to be of particular interest to this Assembly - things like customer service, performance, the success of the agency; issues that are about the culture of particular agencies and that allow that particular agency to have a culture of its own rather than necessarily the culture of the service. I think that is an appropriate approach and I think you will find that the same thing is happening all over Australia. It is interesting to note that the ACT is the only State or Territory that brings agencies and autonomous instrumentalities, as we like to call them in this Bill - I think, somewhat tongue in cheek - under a Bill that has a single culture. The reason why no other State has attempted to do that is that they understand that there are different cultures in agencies and in core public services. For the same reason, the Commonwealth Public Service is attempting to do the same. Rather than suggest that this is somewhat of a joke, around Australia I suspect that our Bill will be the joke.

**MR MOORE** (3.04): Madam Speaker, if I were a public servant working in almost any area of ACT service I would feel insulted by what the Leader of the Opposition just presented. She is suggesting that, in that whole area of service direct to the public, the ACT Government Service, as it will come to be known when this Bill is through, does not provide a good service. I am sure that we have all suffered a couple of odd exceptions where personalities have not been quite right, and maybe I was cranky on the day as well; but, with a couple of exceptions, generally - - -

**Mr Connolly**: It is hard to imagine.

**MR MOORE**: I see that members find that hard to believe, and I can understand that. Madam Speaker, generally the ACT public servants that I deal with provide an excellent service, and they have a great culture of service. I think that ought to be clarified. In fact I would suggest that the Leader of the Opposition, since I see her nodding her head, get up and clarify that.

**Mr Lamont**: And apologise.

**MR MOORE**: And apologise.

**MRS CARNELL** (Leader of the Opposition) (3.05): I would be very happy to clarify that. As Mr Moore would be aware, the actual words I used - I read them - were that this Bill and my amendment would allow staff to focus on customer service, performance and the success of the agency, and not depend on the public service culture. It would allow them to have a culture that actually reflected the area that they worked in. I am sure that every staff person would like to achieve that. The feedback we have had from areas such as ACTEW indicates that they are very keen to do so. Knowing what the Government has promised ACTEW, it is interesting that the Government also obviously realises the importance of them having a culture of their own, as the Government has promised them.

**MR LAMONT** (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (3.06): We also oppose this amendment on the basis of our previously stated objections, Madam Speaker, to most of Mrs Carnell's diatribe about ACTEW, ACTTAB and the Australian International Hotel School. I concur with the views of Mr Moore. I think it is absolutely reprehensible that a person who presents herself in this house as an alternative Chief Minister, heaven forbid, should denigrate the entire public service in one fell swoop as she has done. The best thing that Mrs Carnell should do, I would suggest, Madam Speaker, is to apologise to the 23,000 people in the ACT that she has just insulted. I also find it rather strange that she would adopt this type of attitude on the one hand, but on the other hand go around saying, "Maybe we need to change this and make it more stringent in some areas and less stringent in others". I think this is pretty well indicative of the simple fact that Mr Kaine has not briefed Mrs Carnell on this matter.

Amendment negatived.

Clause agreed to.

Clause 13

**MRS CARNELL** (Leader of the Opposition) (3.07): I move amendment No. 8 circulated in my name. This amendment reads:

8. Page 10, line 25, after subclause (2), insert the following subclause:

"(2A) An autonomous instrumentality shall not be constituted an administrative unit."

Again, this amendment is necessary to protect an autonomous instrumentality from the whims of the Government. It attempts, obviously without too much chance, to give autonomous instrumentalities some autonomy.

**MS FOLLETT** (Chief Minister and Treasurer) (3.07): Madam Speaker, the Government will be opposing this amendment moved by Mrs Carnell. I can only conclude that it has been put forward by Mrs Carnell in the conviction that she will never be in government because the intention of this amendment is to prevent the Government from conducting one of its important functions, and that is to determine the structure and the arrangement of the government functions. The subclause that Mrs Carnell is proposing to

include means that an autonomous instrumentality would not be constituted as an administrative unit. Administrative units are the very basis of this Bill. Including autonomous instrumentalities within this Bill has been voted on many times in this Assembly. It is clearly the majority will that they be included within the Bill.

Mrs Carnell's proposed amendment would restrict an important right of the head of the Executive, and that is to determine the machinery of government. The amendment would be quite unprecedented, in my view, in terms of its implications for any head of government. As I say, it has been put forward, I can only conclude, by a person who does not ever expect to be a head of government. From that point of view, I regard the amendment as bordering on the irresponsible. The intention of it is to restrict the Government's ability to deal with these areas which are within its control. The Government would not, for instance, be able to abolish or to change an instrumentality even where that body was clearly acting against the public interest, or was clearly operating fraudulently or corruptly. Mrs Carnell would still not want the Government to be able to change that. I think it is a silly amendment, and I urge all members to oppose it.

**MR KAINE (3.10):** The more the Chief Minister speaks on matters of public administration, the more she demonstrates how little she knows about the machinery of government. What she is saying is that there is no room for any agency of government to be outside the steel fist of the Chief Minister. That runs contrary to the way public administration is running everywhere in the world except in the ACT. Even within Australia, amongst the States the tendency is to set agencies of government outside the iron grip of the Minister, particularly when they are commercially oriented, so that they can get on with the job without being interfered with.

If the Chief Minister bothered to do what some of us did recently and go to New Zealand to see what they have done there she would be staggered. She could not possibly conceive that any government - and that was a Labour government - could do the things that have been done with the administration over there. She is completely out of step with what is happening elsewhere, and I mean everywhere. She says that this would destroy the structure. My biggest criticism of this Bill right from the beginning has been that it does not provide for any structure whatsoever.

The Chief Minister has not even defined what functions she wants this organisation to perform, let alone define a structure within which they would be performed. She is totally inconsistent, totally illogical, and she does not have any grasp of what is happening in public administration across Australia. Let us ignore the rest of the world for the moment. For her to argue that, because an agency of government is not an administrative unit, by definition it cannot be under the control of the government is a nonsense. There have been things called statutory authorities for decades. We have a number of them right here, and they are all subject to ministerial direction by the very statutes that set them up.

How can the Chief Minister argue that she can be a Minister who is capable of issuing a directive to a statutory authority on the one hand and then say that she cannot do that simply because it is not defined as an administrative unit under this Bill? It is a nonsense. Mr Connolly was talking earlier about stuff and nonsense. I would go further. What the

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Chief Minister just said is absolute gobbledegook and she simply has no comprehension, or she gives every impression that she has no comprehension, of the way the machinery of government is set up in the rest of the country. It seems to be that if we did not invent it here it does not work. What we are inventing here is something totally inconsistent, totally out of line, with what everybody elsewhere in Australia seems to think is the proper way to go, and that is to decentralise; to quote the Chief Minister and some of her Ministers, "to let the managers manage".

This is one of these best business practices that have been adopted and which are talked about here somewhere. What we are not doing is introducing best business practice. We are introducing practices of the 1930s, when it was the business of government, it seemed, to run everything, to control everything, and not let one single person paid by the public purse out of the control of a Minister. That is what we are reverting to. We could go back a little further to 1919, I suppose, and introduce what happened with the Bolshevik revolution in Russia. I am sure that that would suit this Government just fine, but I do not think it would suit anybody else.

Madam Speaker, while I know that numbers is numbers, the Chief Minister really does need to brush up on public administration and the machinery of government and stop talking the nonsense that she has been purporting to be logical argument against what the Leader of the Opposition is suggesting.

**MR LAMONT** (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (3.14): Madam Speaker, I am pleased, following Mr Kaine's dissertation and the nonsense from Mrs Carnell, that I have the opportunity to respond to a number of issues that I think go to the heart of the philosophical position adopted by the Liberals in their amendment this afternoon. Let us look at the New Zealand model. It is the New Zealand model that Mr Kaine referred to as far as public administration is concerned that is at the heart of Mrs Carnell's one-page budget strategy that Mr Humphries was forced to table in this chamber last Thursday night. It is that New Zealand model of public administration that really underlines the general thrust of all of your concerns about what should happen here in the Government Service.

I think it is appropriate that people listening to this debate this afternoon throughout this building talk to their friends, their neighbours and in their workplaces about the strategy that the people opposite have for administering this Territory, should - heaven forbid - they ever get onto the treasury benches. Madam Speaker, one would presume from their model of what an administrative unit is that we would find that there would be extensive privatisation of government services in the ACT. That is what this is all about.

**Mrs Carnell:** Rubbish!

**MR LAMONT:** Mrs Carnell says, "Rubbish". She was on the Matthew Abraham program one morning this week talking about exactly that. Unfortunately, because she does not understand, she did not take into account the shortfalls in the proposal that she was putting. That is what the problem is with this amendment as far as what constitutes an administrative unit is concerned.

Government businesses which operate commercially are another tenet of basic New Zealand public service mentality, and that obviously is what Mr Kaine wants to bring in. There is nothing wrong with a government organisation operating commercially in terms of commercial business practice, such as allowing structures such as ACTEW to look for business opportunities outside their core business, allowing internal change to occur, allowing experience and expertise to be built up within that organisation. We support all of those types of things. But that is not what Mr Kaine supports, and it is not what Mrs Carnell supports. Their idea of having a commercial entity, which this amendment of theirs would allow, is simply a fee or charge for everything. Any social justice objective at all would be out the window. That is the New Zealand model. Let us face it. All of the amendments of the Liberals in relation to this Bill, and this one in particular, are aimed at that particular tenet. For any of you to sit across there and deny that - - -

**Mrs Carnell:** Why would we bother?

**MR LAMONT:** You are not denying it?

**Mrs Carnell:** Why would we bother?

**Mr Cornwell:** Why would we bother? You have the numbers. We know that you are just filibustering.

**MR LAMONT:** Madam Speaker, I rest my case. They cannot deny it. All of their amendments are based on the economic rationalist model of public administration. That is what this amendment goes to, and that is why it should be opposed by all thinking members of the Assembly.

**MR DE DOMENICO (3.17):** Madam Speaker, until Mr Lamont stood up I was not going to comment on this.

**Mr Kaine:** Mr Lamont did not say anything, so there is nothing to respond to.

**MR DE DOMENICO:** Thank you, Mr Kaine. Mr Lamont said very little, as usual. He tried to filibuster. He tried personal abuse, which is common. As hard as it may make the Labor Party think, the amendments put forward by the Leader of the Opposition, and this one in particular, are not dragged out of the air by the Opposition without thinking about them. Mr Lamont would be very surprised as to whom the Opposition spoke to.

**Mrs Carnell:** It is the jolly Queensland model, basically.

**MR DE DOMENICO:** As Mrs Carnell says, it is the Queensland model, the Queensland Labor Government model. It is not only the Queensland Labor Government model; it is in New South Wales, Victoria, New Zealand; in fact, all over the world. Mr Lamont waxed lyrical about all sorts of things that the Liberal Party said in its budget response. The Industry Commission, established by the Federal Labor Government, said that the only jurisdiction on earth that did not look at reality, literally, was the ACT Labor Government. That is because the ACT Labor Government does not work on commonsense. It works on political ideology.

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We all know, for example, that one of the first things that happened when this Labor Government came into power was that it was given a direction - no more corporatisation. That direction was this: "No more. You have done Totalcare. Under no circumstances will we, the people who matter, the apparatchiks behind the scenes, allow you to corporatise". That happened, notwithstanding that every other jurisdiction in the country, and nearly every other jurisdiction around the world, realised that without that sort of micro-economic reform things are not going to work properly. This is what this amendment is all about - to steer the Government in the right direction, once and for all, and say, "Please, do not listen just to the Opposition; listen to the Industry Commission. Listen to some of the other Labor governments. Do the right thing. For once in your life, throw away the political ideology and substitute a good dose of commonsense". This amendment is all about commonsense, Madam Speaker, and it ought to be supported.

**MRS CARNELL** (Leader of the Opposition) (3.20): Madam Speaker, Mr Lamont, as usual, went on with a whole lot of rubbish about this amendment. When we talk about reform in the way we manage things, and when we talk about things like micro-economic reform, it is often said that it sounds like economic mumbo-jumbo. They sound like things that are only about bottom lines. As we know, these sorts of amendments, amendments that give autonomy to the managers, to the people who perform services, are the sorts of reforms that have been achieved in Australia and around the world not necessarily and not only for bottom lines, but for efficiency. As we know, these sorts of reforms have been the basis of industrial reform in this country. They have been the basis of improved efficiency. They have not necessarily been the basis of cost reductions, but they do allow autonomy; they allow decision making to be carried out at the workplace level by the people who have to perform the functions. That is what it is about.

At the end of the day, it is not about ideology or anything else. It is about outcomes, and it is about making people at the workplace feel important, the people who are actually carrying out the function. It is about giving them some capacity to determine what their workplace looks like and what their outcomes in their workplace can be. That is what it is about. It is not what it is about just here; it is what it is about everywhere where they have gone down the track of trying to improve the lot of their public servants, of trying to give their public servants the capacity to be part of the culture that they achieve, or that they would like to achieve. The people we spoke to, as Mr De Domenico said, were not the New Zealanders, apart from Mr Kaine's visit there. They were people who have been involved in public service reform all around Australia, the vast percentage of them being in Queensland.

Amendment negatived.

Clause agreed to.

**MS FOLLETT** (Chief Minister and Treasurer) (3.22): Madam Speaker, I move:

5. Page 15, line 33, after clause 23, insert the following heading:

*"Division 2A - Exercise of Chief Executive Powers in relation to certain public employees"*.

The purpose of the new heading is to assist readers in locating these provisions, which are related provisions concerning CEO powers. Again, it is an editorial matter, and I commend it to the Assembly.

Amendment agreed to.

Clause 26

**MS FOLLETT** (Chief Minister and Treasurer) (3.23): I move:

6. Page 16, line 26 to page 17, line 5, omit the clause, substitute the following clause:

**Powers relating to certain staff providing services for Calvary Hospital**

"26. (1) Where an agreement is in force between the Territory and Calvary Hospital for staff at the hospital to be employed under this Act, the following provisions apply.

"(2) The Chief Executive Officer, Calvary Hospital has all the powers of a Chief Executive in relation to the officers employed in the branch of the Service that provides services required to enable Calvary Hospital to perform its public hospital functions as if those officers were employed in an administrative unit under the control of the Chief Executive Officer.

"(3) For the purpose of the administration of the Service in relation to the branch referred to in subsection (2), references in this Act to an administrative unit shall be read as including a reference to that branch.

"(4) In this section -

'Calvary Hospital' means the body known as Calvary Hospital A.C.T. Incorporated;

'Chief Executive Officer, Calvary Hospital' means the person for the time being -

- (a) holding or performing the duties of a Senior Executive Service office; and
- (b) holding the position of Chief Executive Officer under the rules of Calvary Hospital."

The amendment will clarify the arrangements under which the Chief Executive Officer of Calvary Hospital may exercise chief executive powers under this Act in respect of staff of the hospital who are employed under the Act. The powers of a chief executive are directly conferred on the Chief Executive Officer, instead of requiring the Chief Minister to make an instrument designating the officer to exercise such powers. It is a more direct transfer of power. I will be moving similar amendments in relation to the Director of Public Prosecutions and other senior office-holders.

**MR KAINE** (3.24): Madam Speaker, the Opposition is not opposed to this, but I seek some clarification from the Chief Minister. There are three clauses in this Bill that relate specifically to Calvary. This is only the first of them; the two that are yet to be debated are clauses 72 and 74. I am interested in the fact that under this Bill there is a chief executive being established there. I wonder how many people employed under this Bill, or under this Act, when it is enacted, work at Calvary Hospital. I understood it to be a private hospital, and I am intrigued to know how many public servants work there. If there are none, why do we need somebody out there with the powers of a chief executive? I am seeking clarification, Mr Lamont. You can look stupid if you want.

**MS FOLLETT** (Chief Minister and Treasurer) (3.26): I can look up the precise number for Mr Kaine, but I can assure him that it runs to a couple of hundred. Some little time ago we did bring the staff of Calvary Hospital under the Public Service Act. So the majority of them - some couple of hundred staff - are public servants now. By bringing them under the new Government Service Act, we are not changing their situation, other than to give the Chief Executive Officer greater powers. I think that answers Mr Kaine's question.

**Mr Kaine:** It does indeed, Madam Speaker.

**MS FOLLETT:** The amendment that I am moving is simply to make it a much more direct transfer of power to the Chief Executive Officer. Clauses 72 and 74, which relate to the filling of SES positions at Calvary, will also be a matter for the Chief Executive Officer, once he has these powers.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 28 and 32, by leave, taken together

**MRS CARNELL** (Leader of the Opposition) (3.28), by leave: I move together:

9. Page 17, line 15, subclause 28(3), omit "section 65 does", substitute "subsections 65(1), (3) and (4) do".

9A. Page 18, line 14, subclause 32(2), omit "section 65 does", substitute "subsections 65(1), (2) and (4) do".

Madam Speaker, this issue, we think, is very important. We believe that for the Chief Minister to ignore such important issues as discrimination, favouritism or patronage, which we believe are basic to any form of fairness, is simply unacceptable. This part of the Bill allows the Chief Minister to ignore the requirements of clause 65. If the Chief Minister is allowed to make appointments with patronage, with favouritism, and with discrimination as well, what are we talking about here? I think it is a totally unacceptable situation. Under those circumstances, we will inevitably move to a totally politicised senior public service.

The point I have made before on this is that if you are going to go down that track, if you are going to make sure that your senior public servants are totally tied to the Government, so be it. Let their contracts be tied to the tenure of the Chief Minister or her Ministers. But that is not what this Bill does. It certainly allows senior public servants to have contracts, but it in no way ties those contracts to the tenure of a Minister or the Chief Minister. In some circumstances, of course, those people will have tenure. What we are doing here, as a result of the way senior public servants have been treated in this Bill, is an attempt, small as it may be, to ensure that those appointments are made in the most basic way - that is, without favouritism, without patronage and without discrimination. It seems basic to any fairness, to any equity, in the senior ranks of the public service.

**MS FOLLETT** (Chief Minister and Treasurer) (3.30): The Government will be opposing this amendment by Mrs Carnell, and there are a number of reasons for doing so. We have decided to retain the Commonwealth Public Service model for the selection of chief executives. Mrs Carnell has mentioned repeatedly "senior public servants". These are not senior public servants, in a broad sense; they are heads of agencies - permanent heads, as they used to be known, departmental secretaries. They are positions which traditionally are considered by Cabinet. Under the Commonwealth arrangement, merit is not the only consideration in appointments to those positions. It is very important, in positions of this seniority, that the relevant Ministers feel that they have a close personal relationship with the head of their department, and that consideration goes in parallel with merit considerations.

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I want to say also that this Government has conducted and will continue to conduct a merit process for appointments to those head of agency positions, and we are pretty much alone in that. You do not find a great many other governments advertising for permanent heads, putting together selection panels and conducting a merit process. We do that and we will continue to do it; but if we are legally bound to the kind of process Mrs Carnell has outlined we cannot take a decision based on those personal factors, in parallel with the merit process, which I do regard as important. The result would be that what I regard as perfectly proper decisions for the Government to take and for Ministers to take would be challengeable in the courts. You would find a Minister or Chief Minister turning up in the court to answer a charge of preferment or discrimination, under the kind of arrangement Mrs Carnell has put forward. I do not believe that that is appropriate.

I believe that it is a matter where governments and Ministers have a right to select for those very senior positions the person they want, particularly when we do as we have always done, that is, go through a merit selection process. I know that Mrs Carnell says that her amendment does not relate to merit, it relates to discrimination and all the rest of it - - -

**Mr Kaine:** Patronage.

**MS FOLLETT:** Patronage; thank you, Mr Kaine. The point is that in the one and only case where this has been an issue, and I refer to the case of the appointment of Ms Cheryl Vardon as the head of the Education Department, the Opposition did raise such a matter, did challenge that appointment. The assertion they made, the assertion that was repeated in the press, was that I had discriminated against another candidate on the grounds of sex. In fact, that whole tale was a fabrication. We had had a merit selection process, as we have always had.

**Mr Kaine:** In that case, you should not object to this. It is not imposing anything that you do not already follow.

**MS FOLLETT:** Madam Speaker, Mr Kaine fails to understand that the amendment moved by his colleague Mrs Carnell, which I am sure she has not discussed with him, does change this. It does put a legal requirement on the Government to show that we have not discriminated - a requirement that could be tested in the courts. Again, it is the kind of amendment that is put up by someone who never expects to be in a position to make these decisions, I regret to say. I do not think anybody could have a better record than we have on our treatment of merit selection processes, openness, consultation on appointments, and so on. On the question of the appointment of Ms Vardon, I might say that that was consulted upon as well. A lot of good it did at the end of the day!

I urge on members of the Assembly caution in looking at this amendment. On the surface, it looks innocuous, warm and fuzzy; we are being anti-discriminatory, we are outlawing patronage and preferment, and all the rest of it. But it does have some underlying and quite grave implications which I feel I should bring to the attention of the Assembly and which will cause the Government to oppose the amendment.

**MR MOORE** (3.35): The effect of the amendment is to ensure that an appointment is made without patronage or favouritism and without discrimination that is unlawful under the Discrimination Act 1991. I cannot see how somebody could object to that. The Chief Minister said that this is how it is done in the Federal Public Service. If we look at the Federal Public Service, there have been a number of accusations of that very thing applying - of people being appointed with patronage or with favouritism. Certainly, the Right of the New South Wales Labor Party has the reputation of looking after their mates. It is incumbent upon us to ensure that, where at all possible, any appointments made in the future are made without patronage or favouritism. I am not referring to what has happened in the ACT, because I am not aware of any such appointment. I wish to make that clear. I state on the record that I am not aware of any such appointments made at this level in the ACT public service. It seems to me that this is a very sensible piece of forward thinking to ensure that appointments are made without patronage and without favouritism, and that is why I will be supporting both of these amendments.

**MRS CARNELL** (Leader of the Opposition) (3.37): Madam Speaker, there is a typographical error in amendment No. 9A. It should read "subsections 65(1), (3) and (4)", not "subsections 65(1), (2) and (4)". I seek leave to make that alteration.

Leave granted.

Question put:

That the amendments, as amended, (Mrs Carnell's) be agreed to.

The Assembly voted -

AYES, 9      NOES, 8

Mrs Carnell    Mr Berry  
Mr Cornwell   Mr Connolly  
Mr De Domenico   Ms Ellis  
Mr Humphries Ms Follett  
Mr Kaine      Mrs Grassby  
Mr Moore      Mr Lamont  
Mr Stevenson Ms McRae  
Ms Szuty      Mr Wood  
Mr Westende

Question so resolved in the affirmative.

Clauses, as amended, agreed to.

Clause 36

**MS FOLLETT** (Chief Minister and Treasurer) (3.40): I move:

7. Page 20, lines 3 to 27, subclauses (2) to (7), omit the subclauses, substitute the following subclauses:

"(2) Subject to subsections (3) and (5), the Commissioner may -

(a) delegate to a public sector officer all or any of his or her powers under this Act or under any other law; or

(b) sub-delegate to a public sector officer all or any of the powers delegated to him or her under a law other than this Act.

"(3) Subsection (2) does not extend to powers exercisable by the Commissioner under subsection 20(2).

"(4) Subject to subsection (5), a Chief Executive may -

(a) delegate to a public sector officer all or any of his or her powers under this Act or under any other law; or

(b) sub-delegate to a public sector officer all or any of the powers delegated to him or her under a law other than this Act.

"(5) A power shall not be delegated or sub-delegated under subsection (2) or (4) to a person performing a function on behalf of the Territory unless the Commissioner or Chief Executive, as the case may be, considers that the tasks to be undertaken by the person require the exercise of that power.

"(6) If the Commissioner has delegated or sub-delegated a power under subsection (2) or a Chief Executive has delegated or sub-delegated a power under subsection (4), the Commissioner or the Chief Executive, as the case may be, may give directions to the delegate or sub-delegate with respect to the exercise of the power.

"(7) If -

(a) the Commissioner gives a delegation or sub-delegation under subsection (2) or a Chief Executive gives a delegation or sub-delegation under subsection (4); and

(b) the delegation or sub-delegation is expressed to be given to persons each of whom occupies or performs the duties of an office of a kind described in the delegation or sub-delegation;

the delegation or sub-delegation extends to any person who occupies, or performs the duties of, an office of a kind described in the delegation or sub-delegation, even though the office does not come into existence until after the delegation or sub-delegation is given."

Subclauses 36(2) to 36(7) are amended by inserting provisions allowing the commissioner or the chief executive to subdelegate their powers under this Act and under a law other than this Act. The need for the amendment became apparent in preparing consequential amendments to the Administration Act 1988 that are provided for in the Public Sector Management (Consequential and Transitional Provisions) Bill 1994, and subdelegation is possible presently under that Act. The amendments will have the effect of retaining something that can currently be done, which is known as subdelegation. By way of illustration, the Treasurer delegates Audit Act powers to the Under Treasurer, who needs then to be able to subdelegate those to other public servants. So this amendment is aimed at retaining that subdelegation power.

**MR KAINE** (3.42): Again, I do not necessarily oppose this, but it is one of those amendments that are a little obscure. This amendment rests on the definition at the beginning of clause 36 of "public sector officer". It is something we have not had before, and the Government has found it necessary to define this, because of their all-encompassing Bill, in these words:

"public sector officer" means -

(a) an officer or employee;

(b) a statutory office holder; or

(c) a person performing a function on behalf of the Territory otherwise than as -

(i) an officer or employee; or

(ii) a statutory office holder.

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I was at a loss to understand what sort of person we were talking about. Under this Act, if you work for the Government you are either an officer or an employee or you may be a statutory officeholder. I was a little confused as to what other kinds of people there are to whom the commissioner or a chief executive may wish to delegate all or some of his or her powers. For the Chief Minister to say that this is an extension of the Administration Act 1988, whatever that means, does not really clarify the issue. Perhaps the Chief Minister could explain to us to what class of employee or paid person this provision applies.

**MS FOLLETT** (Chief Minister and Treasurer) (3.43): To answer Mr Kaine's question, clause 36 defines the people to whom the clause applies. You need to bear in mind that there may be a need from time to time to delegate to someone who is not a public servant. For example, the CEO of Totalcare is not a public servant, but he has public servants working for him, and we need to empower him to subdelegate. The definition of "public sector officer" includes a person, therefore, who may not be a public servant, although rarely, such as the CEO of Totalcare. He is not a public servant, although he has public servants working for him, by arrangement with Urban Services. So it is to pick up that fairly unusual case.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 39

**MR STEVENSON** (3.45), by leave: I move together amendments Nos 4, 5 and 6:

4. Page 21, lines 14 to 27, omit the definition of "designated group".
5. Page 22, line 10, paragraph (a), omit "and persons in designated groups".
6. Page 22, lines 12 and 13, paragraph (b), omit "and persons in designated groups".

The clause defines equal employment opportunity programs, and in paragraphs (a) and (b) suggests that people should not be discriminated against, specifically women and persons in designated groups, so that they are able to pursue careers, et cetera, as effectively as anyone else. On page 21, "designated group" is specifically defined as any one of a number of classes of persons from (a) to (e), including Aboriginal persons, Torres Strait Islanders, persons who have migrated to Australia and whose first language is a language other than English, persons with an impairment, and any other class of people that it may be considered later on should be included.

I agree that these people should not be discriminated against, and I do not doubt that that is the view held by the vast majority of people in the ACT. However, I am concerned about the idea of quotas, the idea of affirmative action, the idea that anyone within any of these designated groups, or a group named at some later time, would be given

favour over groups not so designated. I thought the best way to bring it up was as an amendment. The Bill refers to the Discrimination Act 1991. In Part II, "Discrimination to which Act Applies", subsection 7(1) lists grounds from sexuality, transsexuality and marital status to race, impairment, and so on. I am not quite sure why some grounds that are mentioned in the Discrimination Act are listed in the Bill before the house and some are not. I do not see the logic there.

I think there is a better solution for people who may have some disability, impairment, disadvantage, et cetera - that is, that they be given or receive the necessary training. Whether they are given it or go out of their way to get it is a point that could be debated. In the Bill before us, paragraph (c) of the definition of "designated group" states:

persons who have migrated to Australia and whose first language is a language other than English, and the children of such persons;

Let us look at that. It is unfortunate that people who do not have a good command of English could be given a job over someone who does. That is discrimination and it is not okay. Some members might say, "That is nonsense; there would be no such discrimination"; but, to the logical listener, that would not succeed because we know full well that such discrimination has been implemented by the Labor Party within the ACT public service. I refer specifically to quotas for women. Whatever you want to call it, it is quotas. The Chief Minister looks rather mystified - - -

**Ms Follett:** "Appalled", I think is the word.

**MR STEVENSON:** Why? Are you appalled about the idea of quotas that you have within your party or are you appalled about the idea that that should also relate to the public service? Affirmative action may sound okay, but when you look at how these things are applied in practice there is a concern.

**Ms Follett:** I raise a point of order, Madam Speaker. The clause Mr Stevenson purports to be amending concerns access and equity principles and programs and designated groups. There is no suggestion of affirmative action. I suggest that he is not remaining relevant.

**MADAM SPEAKER:** Mr Stevenson, have you concluded your remarks?

**MR STEVENSON:** No.

**MADAM SPEAKER:** Would you please not talk about affirmative action or quotas; just talk about the clause.

**MR STEVENSON:** I am afraid that I cannot debate it unless I am allowed to talk about what the Bill talks about. Perhaps, Madam Speaker - - -

**MADAM SPEAKER:** Mr Stevenson, would you please desist from shouting at me and would you please listen to what I am saying.

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**MR STEVENSON:** I was not shouting. As I have mentioned before, you have never heard me shout.

**MADAM SPEAKER:** We will have some order. You may talk about what you want to talk about at the correct point within the Bill. The point at the moment is about designated groups. It does not, as the Chief Minister pointed out to me, talk about affirmative action; nor does it talk about quotas. At the point at which the Bill talks about quotas and affirmative action, you will be permitted to talk about it. I have been asked to rule on a matter of relevance. The Chief Minister has presented a case that you are speaking of matters that are not relevant. I ask you to make your remarks relevant.

**MR STEVENSON:** Can I present the case against the Chief Minister?

**MADAM SPEAKER:** No; you may continue as I have asked you to continue.

**Mr Moore:** On a point of order, Madam Speaker: Mr Stevenson is talking to a series of four amendments. His amendment No. 5 refers to page 22, line 10, subclause (a), which talks about appropriate action being taken to eliminate discrimination against women and persons in designated groups. Clearly, that is affirmative action. I think Mr Stevenson is totally within his rights to talk about affirmative action. We are not talking about just his first amendment we are talking about the four amendments together. Perhaps the Chief Minister had not realised that that is what we are doing.

**MADAM SPEAKER:** Thank you, Mr Moore. You may proceed, Mr Stevenson, as you please.

**MR STEVENSON:** Perhaps I could have clarification. Proceed with what, Madam Speaker?

**MADAM SPEAKER:** I have accepted Mr Moore's explanation. Please continue.

**MR STEVENSON:** You did not say that. You just said, "Thank you, Mr Moore".

**MADAM SPEAKER:** Mr Stevenson, would you like me not to let you continue? Please just continue.

**MR STEVENSON:** Madam Speaker, I must have the right within this Assembly to make logical points, whether you happen to agree with them or not. You did not say that you accepted Mr Moore's point. You simply said, "Thank you". How am I supposed to know what that means, for heaven's sake? Could you rule on that, please?

**MADAM SPEAKER:** I think you understood exactly what was meant.

**MR STEVENSON:** I did not understand, which is why I questioned it.

**MADAM SPEAKER:** Then I will call somebody else. I do not need you to shout at me. We will have a further speaker - - -

**MR STEVENSON:** What do I need to do to get through?

**MADAM SPEAKER:** You could behave in a decorous manner, Mr Stevenson.

**MR STEVENSON:** I always do, when it is deserved.

**MADAM SPEAKER:** Mr Stevenson, I will brook no further argument. Either you will speak to the point that has been put forward to you or you will not.

**MR STEVENSON:** I am only too happy to. Let me make the point clearly. On page 21 there is a definition of "designated group". If the definition did not apply to anything, one would not need to talk to the definition. If it does apply to something, perhaps it is relevant to talk about that to which it applies. That seems logical. What it actually applies to is page 22, as Mr Moore quite correctly pointed out.

**Mr Kaine:** Very erudite.

**MR STEVENSON:** Yes, in an erudite manner. It is only reasonable that I do that. I have a major concern that I will go into outside this Assembly later on. As I was saying some time ago, my concern is that this situation can be used to discriminate. I do not agree with discrimination against these groups.

Let me, in the short time left, make a couple of points. The clause talks about impairment. There is a better way. I was about to talk about solutions before the Chief Minister interrupted. A better solution is to make training available. Laurie Brereton's suggestions, which are currently being drafted in the Federal industrial relations area, are excellent. To allow those people who are impaired to be paid for the degree of work they are able to produce would give them an opportunity to increase their efficiency in that area. I would welcome answers to the questions I have raised.

**MR HUMPHRIES (3.56):** Mr Stevenson has raised a significant question of philosophy to do with the role of discrimination in one form or another in legislation such as this. This is a complex issue that we have discussed before and we should not go into it in much detail today. Let me say simply that, in a sense, he is right to say that to discriminate in favour of one group is to discriminate against another group. But it is also possible to say that, where one seeks to advantage a clearly disadvantaged group within the community, where that group is of a particular character, it is appropriate to consider at least the option of furthering that particular group's interests by some form of discrimination.

I do not wish to make that a principle that is so broad as to be held against me later; but we do have working already within the ACT public service a number of programs designed to advantage people who come from backgrounds which present a disability to them, be they Aboriginal or Torres Strait Islanders, be they persons with physical or mental disabilities, be they persons from non-English-speaking backgrounds. All those people, we can and we should accept, have a certain demand on our assistance, and the kinds of programs that are in operation now, which have had the support of members of this chamber in other contexts, should be allowed to continue, I believe.

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I do, however, recommend to the Assembly the alternative amendment to this definition, which I have circulated. It deletes paragraph (e) of the definition of "designated group". I propose this amendment because, although I think it is appropriate for us to consider designating groups and supporting positive discrimination in favour of those designated groups from time to time, I would not be comfortable with moving, effectively, delegation of this power to designate disadvantaged groups away from the Assembly and into the hands of the commissioner, as I understand subclause 25(1), in conjunction with the Chief Minister. I pose, for example, the situation where the commissioner, in conjunction with the Chief Minister, decided to designate members of trade unions as a designated group for this purpose. That would, I think, be a decision that should be taken by this Assembly, not by the commissioner. I therefore urge members to support my amendment in order that it is the Assembly that adds paragraphs to this clause, not anybody else.

**MS FOLLETT** (Chief Minister and Treasurer) (3.59): Madam Speaker, the Government will be opposing both Mr Stevenson's amendment and Mr Humphries's proposed amendment. The purpose of Mr Stevenson's amendment appears to be to narrow down the application of equal employment opportunity programs so that they apply to women only. I suspect that that was an oversight on Mr Stevenson's part. I suspect, from the comments he has made, that he would have liked it removed from women as well. As his amendment stands, it does leave women as the only designated EEO group. The effect of that would be to deny to some particularly disadvantaged groups in our community the opportunity that equal employment opportunity programs offer to them. EEO programs serve generally to remove unintended barriers to things such as promotions, appointments, opportunities for careers, access to training, and so on. The main purpose of EEO programs is to give people in those designated groups a level playing field. It has nothing to do with quotas and nothing to do with affirmative action. It is to remove barriers for those people within designated groups.

We should not be very surprised to hear Mr Stevenson putting forward this view. It was, after all, the case that in the debate in this Assembly on Aboriginal reconciliation and the vision for reconciliation Mr Stevenson opposed it. He was the only person who did. Clearly, Mr Stevenson's views, at least on Aboriginal and Torres Strait Islander peoples, are known. It is a pity, I think, that his views on people with disabilities and people from non-English-speaking backgrounds are apparently just as intolerant, just as discriminatory, as his views on the record on Aboriginal and Torres Strait Islanders. Madam Speaker, anybody with any commonsense would oppose this amendment, and I urge all members to do so.

**MR STEVENSON** (4.02): My intention is not to cause discrimination but to remove it. As I said, there are better ways of doing this. The simple truth of the matter is that within the public service there should be one criterion for employment. Can the person do the job? If they can do the job they should be entitled to the job. Anything less than that gives us a public service, or should I say a government service, that is less capable. I have already intimated how my solution would work. We know that there are many training programs in the ACT that help groups that have some disadvantage. That is a quite good idea. However, I am concerned about what some people call reverse discrimination. I believe that there is no such thing. There is only discrimination. No-one should be discriminated against if they can do a job. That is the simplicity of it.

**MR BERRY** (4.03): I am deeply concerned about the level of debate on this issue. From my point of view, this has all the odours of racial discrimination. The people who put those sorts of arguments ought to have attention directed to them. Nobody in today's society would accept that those people who are defined as being in a designated group should be dealt with in any other way than the way they are dealt with in this legislation. I am deeply disturbed, though not surprised, I should say, at the attitude of Mr Stevenson in relation to the application of the provisions of this Bill to those people as they are defined in that designated group.

That does not mean that it ought to pass unnoticed. At no time will I sit idly by and allow comments that can be seen to be racist to pass without some criticism. Mr Stevenson is very clearly seeking to wipe out that special mention in the Bill of Aboriginal persons and others, as described in paragraphs (a) to (e) inclusive. This goes back to the logic of the white supremacists that we have seen in operation in South Africa. I do not think we need that sort of attitude to creep into the debates in this Assembly, and every time I hear a glimmer of it I am going to rise and draw attention to the person who makes those sorts of moves. Madam Speaker, as has been indicated, the Government will be opposing what Mr Stevenson is up to, and I expect that all right thinking people in the ACT will applaud us for opposing what he is up to.

**MR LAMONT** (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (4.06): Madam Speaker, what we are talking about is a range of programs that have been identified by title in this part of the Bill. They have been developed after extensive consultation and negotiation, not only with appropriate organisations within the ACT but also with national organisations representing the types of service providers, the types of representative organisations, that cover each designation that has been included in the Bill. The programs we are talking about are extensive. They are well accepted. They are based upon respect for human dignity. They are an appropriate reflection of the values of the society within which we live. For Mr Stevenson to attempt to exclude from this Bill recognition of the process by which we have arrived at these outcomes and these outcomes is reprehensible. It is reprehensible because I am confident that Mr Stevenson has not consulted with anybody in regard to his decision to move this amendment.

**Mr Stevenson:** You would not want to put some money on it, would you?

**MR LAMONT:** Mr Stevenson - - -

**Mr Stevenson:** Yes or no? It is an easy one.

**Mr Berry:** I raise a point of order, Madam Speaker. I am sick of hearing Mr Stevenson scream across the room.

**Mr Stevenson:** You are closer to Mr Lamont when he does it. I have never heard a peep from you.

**MADAM SPEAKER:** Mr Stevenson, it is not question time; just shush.

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**MR LAMONT:** Madam Speaker, I am confident that Mr Stevenson has not consulted with any of the organisations representing groups covered within this legislation. Yes, I am prepared to lay a small wager on that. If he has, I am confident that they would have said, "On a poll of us, Mr Stevenson, we do not want you to do this". I would suggest that, if Mr Stevenson went out into our community, he might be able to find 7.5 per cent or 3.6 per cent or one per cent or a half of one per cent of the population that may concur with him. I would suggest that Mr Stevenson's move this afternoon may have more to do with that outcome than with any matter of fairness and equity contained in this Bill. I would suggest that Mr Stevenson's amendments may have more to do with what will happen in the first two months of next year as far as an election for this Assembly is concerned than they do with good management.

**Mrs Carnell:** As if this whole Bill does not.

**MR LAMONT:** Mrs Carnell, it is obvious that you, through your actions, view this matter as something which you would like to see continue on so that you can filibuster through an election. That is not the position we wish to adopt. Mrs Carnell, you are grasping for issues. Last week you came up with a one-page budget strategy. When that did not work, you had to try to get hold of Chris Downy in New South Wales to create another issue. That has not worked. This week you try to do something else.

**Mr Kaine:** On a point of order, Madam Speaker: You have brought people back to the point of the debate before. I think you should do so now.

**MADAM SPEAKER:** I was rapidly coming to that conclusion myself, Mr Kaine. Mrs Carnell, the question before us is: That Mr Stevenson's amendments be agreed to.

**MRS CARNELL** (Leader of the Opposition): Madam Speaker, I seek leave to make a personal explanation.

**MADAM SPEAKER:** Leave is granted, Mrs Carnell.

**MRS CARNELL:** If I do not, what happens in this place is that Mr Lamont continues to go on with stuff that simply is not true. The fact is, Mr Lamont, that I did not speak to Mr Downy before he put out the press release last week - categorically, end of deal. I did not speak to the Minister in New South Wales before he put out the press release. The reason I rang him then was that the media asked me for a comment, just as they asked you for one. Therefore, just as your office was on the phone to his office, so was my office - to find out what the story was. I have since spoken to him not at all. I spoke to him once to find out what was behind the press statement. End of deal.

**MR STEVENSON** (4.12): Madam Speaker, I seek leave to speak again. I was brief the second time, as you know.

Leave granted.

**MR STEVENSON:** Madam Speaker, I think the proposer of a motion or an amendment should have the right to speak last, to handle any queries that have been brought up. Perhaps that is something we can look at in the future.

I do not know whom to start with - Mr Lamont or Mr Berry. Let me start with B; that is first. Mr Berry made some bizarre claims and sought to move us down some amazing road that would call people names. He talked about these things being seen to be racist. Racism, as with most other labels, is largely used in our society to prevent discussion and freedom of speech. I know that there are people who would decry that. I know that there are many people who do not have the guts to say it, particularly in parliament. Nonetheless, it is true and is easily presented as being true. It is unfortunate, because that does not serve anybody. What we should have in society, not just in this Assembly, is the right to present any view. Is not the best way to oppose a view to hold it up for all to see?

Mr Berry referred to earlier times. One of them was when the Discrimination Bill was being passed by this house and I debated over three days against certain of the contents of that Bill. Let me pick up that one. Is it not fair that anyone should be able to have an opportunity to say what is in a Bill and have that presented for the community to find out about? One of the things I presented was that this Bill says that someone can be investigated without complaint, that this Bill - - -

**Mr Berry:** On a point of order, Madam Speaker: Relevance to the amendment.

**MR STEVENSON:** This Bill mentions the Discrimination Act in this clause. I thought I would get that in early.

**MADAM SPEAKER:** It is okay, Mr Stevenson. Mr Berry did bring up discrimination. The amendments, as I understand it, refer to possible discriminatory action, as Mr Moore pointed out; so you may continue.

**MR STEVENSON:** Thank you, Madam Speaker. This Bill allows people to be investigated without complaint; it is in there. This Bill does not allow anyone the right to have legal representation before the tribunal; it is in there. It is incorrect to suggest that the commissioner can allow someone the right. That is not a right. This Bill can compel someone to attend a hearing at a specified time and place.

**Ms Follett:** I raise a point of order, Madam Speaker. With respect, we are not debating the Discrimination Act, which Mr Stevenson is doing. The reference to the Discrimination Act in the clause we are debating is a reference only to the definitions within that Act, not to the provisions of the Act.

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**MADAM SPEAKER:** Mr Stevenson, I did allow you to continue. Can you make the connection between what you are talking about and the amendment a little clearer? You may proceed.

**MR STEVENSON:** My opening words concerned whether or not someone should have the right to freedom of speech. Mr Berry and Mr Lamont suggest that I should not. They say that what I say is not acceptable to them. However, I think it is fair that I make the point that we should have freedom of speech. I picked a specifically relevant time when I made some points. This will also handle Mr Lamont's point about any relevance to the first two months of next year.

This Bill also requires someone to present information at a specified time and place. What I have on my desk here is information. I have books and folders and files. That is information. All of us hold information in another place. We hold information in our heads. We hold information in our minds. This Bill can require you to supply information and, if you have information in your head, to write it down and present it in evidence. The Discrimination Act 1991 does that. It also says that there are no rules of evidence. It says many other things, but they are some of them. This is subversive - I repeat, subversive - of our freedoms and rights in Australia, which have been hard won over a long period of time.

**Ms Follett:** Madam Speaker, again on a point of order: We are not debating the Discrimination Act; we are debating the Public Sector Management Bill, clause 39. I do not believe that it is relevant to go into the detail of the Discrimination Act as Mr Stevenson is doing. We all know that he was totally opposed to it and that he filibustered for three days to try to subvert that Bill. He did not succeed, and he is not going to succeed now. He is merely wasting the time of this Assembly.

**MADAM SPEAKER:** Mr Stevenson, I did ask you to make your remarks relevant.

**MR STEVENSON:** I had just finished that particular section.

**MADAM SPEAKER:** Would you please finish your remarks in relation to your own amendments then.

**MR STEVENSON:** Was any single one of those points I presented in this Assembly reported in the media? To my knowledge, no, not at all.

**MADAM SPEAKER:** Mr Stevenson, speak to your amendments, please.

**MR STEVENSON:** Mr Lamont suggested that this had more to do with what is going to happen in the first two months of next year. What a nonsensical suggestion! I do not know how they dream these ideas up. That thought would not enter my head. It is bizarre. I understand why people laugh. That is all they think about now. Everything else is wiped out of their lives. They are moving and shaking to do their absolute best. So I understand that it is impossible to suggest to someone like that that any other viewpoint can exist.

However, I brought up the point because I believe that, as I have stated before, to refer to going down the line and heading towards South Africa is an attempt to denigrate another viewpoint. That is unfortunate. Is not the best way to debate any argument to debate it in the open? Will not people be able to make up their minds when they are free to hear both sides, not just free to hear one side and to have only one side reported, as the *Canberra Times* reported only one side of the debate on that Discrimination Bill? Not a word of what I said was reported. They just said that I carried out a one-man war against human rights. How bizarre!

Amendments negatived.

**MR HUMPHRIES** (4.20): I seek leave to move the amendment which has been circulated in my name under the heading "Advised".

Leave granted.

**MR HUMPHRIES:** I move:

Page 21, lines 25 to 27 (definition of "designated group"), paragraph (e), omit the paragraph.

Madam Speaker, I will not take a long time over this; I do not think we need to take a long time over it. Paragraph (e) in the definition of "designated group" seems effectively to allow somebody other than this Assembly to make exemptions from the Discrimination Act in relation to employment within the ACT public service. I draw members' attention to clause 251 of the Bill, which says:

The Commissioner may, with the approval in writing of the Chief Minister, make management standards ... prescribing matters -

It is not the Assembly but the commissioner who makes management standards, and it is the Chief Minister who assents to those management standards. I think it is true to say that there is no disallowance capacity with respect to those management standards, so we do not have the chance to review or disallow them. Those management standards, in turn, are referred to in clause 65, particularly subclause 65(3). I think this has a bearing on what the Chief Minister said before about the Discrimination Act. With respect, clause 39 affects the Discrimination Act quite significantly. Subclause 65(3) says:

... an appointment, promotion or transfer that is in accordance with a program to encourage the appointment to ... the Service of women or persons in a designated group, being a program that is declared by the management standards to be an approved program for the purposes of this subsection, shall be taken to be not unlawful under the *Discrimination Act 1991*.

Paragraph (e) under the definition of "designated group" allows the commissioner, with the approval of the Chief Minister, to exempt a class of persons from the operation of the Discrimination Act.

**Ms Follett:** No.

**MR HUMPHRIES:** I think that is what it does, because people who fall into that group may have rules made in respect of them which are potentially prejudicial to other people within the class of people who might be employed or promoted within the ACT public service. That is the way I have read it. If the Chief Minister has a different view of it, she can put it to us. It seems to me that, if we are going to designate individuals for whom particular procedures should be put in place, then we should indicate that decision at the level of the Assembly, not at the level of the commissioner of the public service. It is the Assembly that makes decisions about the scope of the Discrimination Act, not anybody at a lesser level.

**MS SZUTY (4.23):** I have been listening very attentively to what Mr Humphries has had to say about his amendment. I must admit that it was my understanding that the public sector management standards would be instruments disallowable by this Assembly, but perhaps the Chief Minister could clarify the matter for us today.

**MS FOLLETT (Chief Minister and Treasurer) (4.23):** The Government opposes Mr Humphries's amendment, and we do so because I think Mr Humphries is under an misapprehension. The purpose of paragraph (e) is simply to allow another class of persons, another designated group, to be added under the purview of access and equity and equal employment opportunity. At the moment there is no such group of people apparent, but it is quite conceivable that over time another group may emerge. I am aware of some debate that is going on, for instance, about people whose appearance is different. Just on the grounds of appearance there may in time be another designated group.

The provisions that I have put into the Bill in fact mirror the existing Commonwealth provisions under the Public Service Act. I believe that it is appropriate that we delegate this role to the commissioner. After all, it is the commissioner who will be responsible for the overall personnel management of the ACT Government Service. The commissioner, I submit, may be best placed - looking at the employees of the Government Service - to make a judgment about whether there is another target group who would benefit from the provisions under the access and equity and equal employment opportunity programs. It is not a matter of exempting people but rather of adopting a capacity to add other groups. As I say, there are no other groups that I am aware of at the moment, but there could well be.

If you look at the original derivation of the existing EEO target groups, you will find that those groups were arrived at by pretty much an internal public service management process. I, for one, believe that it is appropriate to allow some capacity for the groups to be expanded if it is ever needed. I think that we ought to have confidence in the commissioner to make those kinds of judgments. It is not a matter which will be secret at the time, surely. It is a matter which will be in the standards. I think Mr Humphries is correct in saying that the standards are not a disallowable instrument; but if needs be,

if the Assembly takes grave exception to what is in those standards if another group is added, then presumably we could amend that by amending the Act at the time. In the meantime, as we keep hearing from the Liberals, let the managers manage. Give them the capacity to add to the standards another target group if the commissioner believes that that is appropriate.

**MR KAINE** (4.26): Madam Speaker, I could not disagree with the Chief Minister more. These are not decisions that the commissioner or any other public servant should make. Whether or not a certain group within the community should be recognised as requiring special treatment is a matter of policy. It is not a matter for a public servant to determine. I am interested that the Chief Minister says that the commissioner will decide this.

I am more intrigued the further we go through this document. From time to time it uses the words "declared by the management standards". These management standards are pretty nebulous. They are going to do a great many things. Quite frankly, I have not seen one yet. Yet we are relying on these management standards to define a great deal that is going to determine how this organisation operates. That does not tell me that it is going to be the commissioner or anybody else. As I understand it, the management standards - and they are poorly defined - will have two parts. Some parts will be declarative and those parts will be instruments disallowable in this place. The other parts will be for information only and will not be subject to disallowance in this house. That is as I understand it, but I know only what I have been told by public servants. The Chief Minister has not attempted to explain what they are, where they are or why they are not before us with the Bill that we are discussing.

I do not accept the Chief Minister's bland statement that, if there emerges another group of people who need to be specifically defined in an Act as requiring special consideration, we should leave that to the public service to determine. I could not think of any worse way of dealing with the matter. I am surprised that the Chief Minister would attempt to defend her position on the basis that some undefined public servant who may or may not write a management standard at some future time should be allowed the total jurisdiction to determine a group that fits into this designated group category. It is totally alien to me, and I am amazed that the Chief Minister would put it forward in justification for her Bill. I am totally opposed to what is in this Bill. I support Mr Humphries's amendment, and I think any sensible person in this place would do the same.

**MR MOORE** (4.29): Madam Speaker, I will fit into Mr Kaine's definition of a sensible person. It seems to me that Mr Humphries has raised a significant issue. We are talking about discrimination. That is what this is about. It is critical for this Assembly to deal with the issue of discrimination at any time. Whilst I am pleased with the way this clause is set out, it seems to me that, if a new class of persons is to be declared a designated group - along with Aborigines and Torres Strait Islanders and people of non-English-speaking background - in respect of whom a positive act is required in order to deal with discrimination, then this Assembly ought to be made clearly aware of it. We could deal with it by disallowance of the management standards. I believe that the management standards will be a very thick document, and we could well miss a new designated group. But there is some doubt about whether these standards will be disallowable instruments. That is something that we can deal with as we get further into the Bill.

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Madam Speaker, it seems to me that the logical thing for us to do when we are dealing with such a serious issue is to bring it to the attention of members. All members ought to be conscious of any act of discrimination that is going on, if that is at all possible, particularly within the ACT's public service. Madam Speaker, I think this a very sensible amendment put up by Mr Humphries, and I shall be supporting it.

**MR HUMPHRIES** (4.31): May I make a brief point, Madam Speaker. The Chief Minister says that discrimination referred to in clause 39 is positive discrimination; it is discrimination in favour of somebody, not against somebody, and therefore it cannot possibly breach the Discrimination Act. I would accept her logic were it not for the provisions of subclause 65(3). She says in that subclause - and this is her Bill, do not forget - that discrimination in favour of some group shall not be taken to be unlawful under the Discrimination Act. If that possibility exists, she cannot in the same breath argue that positive discrimination cannot in some circumstances be discrimination which is unlawful.

Amendment agreed to.

**MS FOLLETT** (4.32): Madam Speaker, I move:

8. Page 22, lines 20 and 21, omit "administrative units or Territory instrumentalities", substitute "government agencies".

Again, this is a tidying up exercise consistent with what I did previously. It is merely to change the definition of "industrial democracy program" by omitting "administrative units or Territory instrumentalities" and replacing that phrase with the phrase "government agencies". It is an improvement to the text.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 44

**MS FOLLETT** (Chief Minister and Treasurer) (4.33): Madam Speaker, I move:

9. Page 24, line 2, subclause (1), omit "may make provision", substitute "shall provide".

This amendment makes it very clear that the joint council will be established - in other words, it makes it mandatory - and arises as a result of our negotiations with the unions. Madam Speaker, I realise that this amendment may give problems to some members; but the fact of the matter is that as a Labor government we are very proud to acknowledge the consultation that occurs with unions and have no objection to making that consultation with the peak union body, the union management body - the joint council - mandatory within our legislation.

I believe that it is also roughly consistent with what occurs with the Commonwealth and the Northern Territory. They both make legislative provision for a joint council. Madam Speaker, whilst the Commonwealth legislation states that a joint council may be provided for, Commonwealth regulations actually make it mandatory. This provision makes it a formal requirement of the Government to consult regularly with the unions. I consider that it is also best practice as part of the industrial democracy principles, and I therefore commend it to the Assembly.

**MR KAINE** (4.34): Madam Speaker, it will not come as any surprise to the Chief Minister, I am sure, that I oppose this amendment. I oppose it, Madam Speaker, because I do not believe that legislation should be making something of this kind a statutory requirement. I was prepared to accept the original Bill, which said that the management standards "may make provision", although I come back to the point I made earlier that I do not know what these management standards are. I have not seen them. I do not know who has drafted them. I do not know who is going to endorse them. I do not know what standing they have until they are brought before this Assembly and we can see. It is curious to say that the management standards may do this. I would have thought that, if the Government was really serious about this, first of all it would have said that the commissioner, or some specific person with a responsibility to do so, may do this.

Another interesting thing is that when the Government drafted this Bill "may make provision" was good enough. Now we have this newfound commitment to the Labor cause. It has only just emerged now, suddenly, that we must make it compulsory. Why was it not compulsory when the Bill was first drafted? What happened to the Labor Party's commitment at that point? They had to go and dig it up after a while and put it back into the Bill. I oppose the amendment because I think it is a curious thing. It has nothing to do with the machinery of government; it has nothing to do with the way government works. It has to do purely with what goes on within the organisation and how, if at all, the commissioner - not the Government - talks to people within his organisation. He should be able to do that without making this a statutory requirement. In fact, I know that he has for a long time, so it is not necessary to make it a statutory requirement.

There is another curious thing about this Labor Government's newfound commitment to its principles. In three of the four preceding clauses which we have passed - talking about equal employment opportunity programs, access and equity programs and industrial democracy programs - the wording is "may provide". The Labor Party's commitment to these things did not show up there. On this one issue we suddenly find that it has to be not "may" but "must". I find an inconsistency there. If the Chief Minister sees it as a necessity to make it mandatory to set up this consultative forum at the top level, what has happened to all the other consultative forums further down the system that have been in place for years? Why does she not make it a statutory requirement for them as well? As I say, it is getting curiously and curiously, a bit like Alice in Wonderland - or a bit more like Rosemary in Wonderland. I do not know that she understands what this means, or why she is doing it either. I make it clear that the Liberals are prepared to go along with the original Bill, which says that they "may" do this. That is okay. But, if the Chief Minister wants to go that one extra step and say that they must, we oppose it.

**MS SZUTY** (4.38): I have listened to what the Chief Minister and Mr Kaine have said about this particular matter. I would have to say that I do not have any particular problem with the provisions in respect of the joint council as it has been proposed that they be amended by the Chief Minister. I think the amendment enshrines the current practice in respect of the joint council. However, I will take the opportunity to express a reservation I have about my understanding that the management standards yet to be developed will be reviewed and disallowable by this Assembly. I understand that it is a matter that we will return to later in the debate, and I will take the opportunity to speak again then.

**MR MOORE** (4.38): It is interesting that in the initial instance the legislation was drawn up stating that management standards "may make provision" and then we have a tightening up of that to "shall provide". Madam Speaker, essentially this is an administrative issue. I have no idea why it is in the Bill at all, apart from the fact that it is in other legislation in other jurisdictions. It seems to me that it is an administrative matter and ought to be handled as an administrative matter.

The definition - and I hope that Ms Szuty, and indeed the Government, pay particular attention to this - limits the council to a management-union body. It may well be that such a body, if organised in an administrative way, could bring in some other form of expertise which could improve the management standards no end. For example, a management consultant may well be brought in and be represented. It may be appropriate for a business council dealing with the Government to be represented. It may be appropriate for representation from, for example, a legal aid commissioner where the management standards affect such an office, depending how public sector reform goes.

It seems to me that by keeping this in the legislation at all you are simply making a rod for your back and, most importantly, limiting what you can do with such a council. To me, that seems strange. I do not object to the notion of a joint council. But why the heck is it in the legislation when it ought to be an administrative function? So, for those reasons, Madam Speaker, I shall oppose the amendment and shall support the foreshadowed amendment of Mrs Carnell.

**MS FOLLETT** (Chief Minister and Treasurer) (4.41): I thought I had made clear, Madam Speaker, the reason for this amendment coming forward from the Government. Obviously I had not, or obviously other members are being deliberately deaf on this occasion. The amendment has come forward from the Government following our consultation on this Bill. Madam Speaker, this morning we had a great song and dance from members about their consultation on the Bill and how they wish to amend the Bill. What I am saying to you is that in consultation on the joint council provisions in this Bill it was very apparent that particularly the unions wished to have this provision strengthened. Following that consultation, the Government accepts that point, because we fully accept the role and the nature of the joint management-union body which is proposed as the joint council. Madam Speaker, I again commend the amendment to the Assembly. If members are genuine in their commitment to consultation and to listening to what people say, then they will accept the amendment as well.

Question put:

That the amendment (Ms Follett's) be agreed to.

The Assembly voted -

AYES, 9      NOES, 8

Mr Berry	Mrs Carnell
Mr Connolly	Mr Cornwell
Ms Ellis	Mr De Domenico
Ms Follett	Mr Humphries
Mrs Grassby	Mr Kaine
Mr Lamont	Mr Moore
Ms McRae	Mr Stevenson
Ms Szuty	Mr Westende
Mr Wood	

Question so resolved in the affirmative.

**MRS CARNELL** (Leader of the Opposition) (4.45): I strongly believe that this whole clause should be deleted from this Bill. The reason it should be deleted has already been discussed, and that is that it is an administrative matter. It is a matter that should be handled, as it has been in the past, at the management level, the union level, the government level, but not in legislation. The other thing that concerns me about this particular clause is that it actually does not say anything. As we know, an amendment has been passed providing that a management standard shall provide for this joint council. But from then on what does the clause say? It says:

The Joint Council shall be constituted in such manner as is prescribed.

It will have functions that will be prescribed. It will be representative of the commissioner, government agencies and relevant staff organisations; but it does not say how - - -

**Mr Kaine:** Who is going to prescribe it?

**MRS CARNELL:** It does not say who is going to prescribe it. It certainly is not prescribed at this stage. We do not know at this stage who will be on the body and we do not know what functions it will have, but we know that it has to be set up. Quite seriously, that is just not good enough. It is not good enough to pass something in legislation if we do not know what we are passing - and we do not.

**MS FOLLETT** (Chief Minister and Treasurer) (4.47): The Government opposes Mrs Carnell's circulated amendment, Madam Speaker. The fact of the matter is that a joint council is currently provided for in legislation, in the Public Service Act, and I believe that it would be extremely remiss for our own public service legislation not to contain such a provision. I have made a commitment that our public servants will not be disadvantaged by this change. I believe that to delete any reference to the joint council would be to their disadvantage.

The joint council is the peak body for consultation between unions and management. Madam Speaker, had Mrs Carnell ever sought any briefing on the role of the joint council, I am sure that it would have been forthcoming. Its role is to discuss major policy matters that affect the employees of the public service. Those policy matters can be very broad; for example, part-time employment or people working in remote localities and the kinds of provisions that need to be made for them. Other broad issues that it might be appropriate for the joint council to consider are the provisions for workers with family responsibilities and what might flow from Australia's ratification of that ILO convention.

**Mrs Carnell:** But it does not say any of that. It has no functions.

**MS FOLLETT:** Madam Speaker, I hear Mrs Carnell interjecting that the legislation should spell all that out. What nonsense! Madam Speaker, this is just an anti-union move by the Liberals, I am afraid. They wanted to deny the unions the results of the consultative process by not making the change to this clause that the Government was proposing. The fact of the matter is that if we were to have a Liberal government they would probably seek to delete this clause entirely. But we have a Labor government, and I will not agree to that - not now and not ever.

**MR MOORE** (4.49): Madam Speaker, I am certainly not anti-union at all. I think this matter can be dealt with administratively. When this clause is read in conjunction with subclause 253(5), where the Bill specifically attempts to ensure that disallowance of management standards cannot be moved, it leaves great freedom for the establishment of a joint union-management council which the Assembly simply has no say over whatsoever. Madam Speaker, it seems to me that if it is going to be an administrative matter it should be dealt with as an administrative matter. It is for those reasons that I shall be supporting the amendment of Mrs Carnell.

**MADAM SPEAKER:** It is the opposition of Mrs Carnell. There is no amendment before us.

**MR MOORE:** I shall be opposing the clause.

**MR KAINE** (4.50): I thought I made it clear when I spoke earlier that I took no exception to the original provision because I had no objection to the unions being involved in management decision making. When the Chief Minister gets up and says that we are anti-union, it is codswallop. It is a very interesting comment from a Chief Minister against whose work most of the unions in the town are currently imposing bans. She has the effrontery to stand up and say that we are anti-union. There is clearly no substance whatsoever to that.

I agree with Mr Moore. This is a matter that should be dealt with in an administrative way. It is not an appropriate matter to be included as a statutory requirement at all. It has been in place in the past. It did not need statutory blessing then. It does not need it now. I made the point that, instead of talking about management standards, it should refer to the commissioner. The commissioner is quite capable of setting up an internal consulting body. I am sure that he will. He does not need the statutory prescription to allow him to do it. He will do it anyway. It has nothing to do with any like or dislike of the trade unions. It is simply a matter of whether it is appropriate to include this sort of thing in a statute or not. I do not believe that it is. Mr Moore obviously agrees with me. But the Chief Minister cannot accept that for what it is - simply an opinion.

**MR LAMONT** (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (4.52): Probably I am one of the few people here who have had the opportunity to participate in the considerations of the Joint Council of the Australian Public Service about matters going not only to the substance of issues but also to the participants of joint council. One of the complaints about this provision in the Bill is that it is not prescriptive; it does not provide for who they are. In fact, joint council does not do that. In fact, it allows for change to occur. It recognises that change will occur and - - -

**Mr Kaine:** It says that the membership will be as prescribed, Minister. Read your own Bill.

**MR LAMONT:** Your complaint just now was, as I understood it - - -

**Mrs Carnell:** We do not know who is on it.

**MR LAMONT:** That is right.

**Mrs Carnell:** It says that it has to be prescribed.

**MR LAMONT:** That is right.

**Mr De Domenico:** Who is on it? Where is it prescribed?

**MR LAMONT:** It will be able to be prescribed in such a way as to ensure that the philosophy of having a joint council is achieved. I believe that it is an appropriate way to proceed to set up a quite clear and definitive process within the Act and then to allow it to be adaptive to the needs of the service. It may very well be that particular organisations, as an example, may take exception to the Trades and Labour Council and pull out of the Trades and Labour Council. So they would not be represented under the broad umbrella of the Trades and Labour Council. But they should, as employees in the service and trade unions with awards that cover the service, be represented on joint council. What is being proposed is a mechanism which will allow that type of flexibility. That is responsible.

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It will achieve that fundamental principle that we have - that unions and managers jointly should be involved in determining a range of issues. Let us have a look at the types of issues. The Chief Minister has outlined a couple of those, but they are absolutely limitless. This provides an expedient way for a government employer to allow for discussion, debate, research and recommendations to be made on issues of broad coverage, and at times for obscure issues to be given the prominence that they require.

I can understand why the alternative spokesman on public service matters for the Opposition, Mr Kaine, has these problems, Madam Speaker. I can understand why he has these problems, for he has been used to working in the Defence model.

**Mr Kaine:** No, I have not. I have been working with the trade unions, including you, Mr Lamont, for five years.

**MR LAMONT:** Okay; maybe he did not work in the Defence model, but he was employed at Defence. Even under the old triservice structure for defence departments, there were matters which needed to be dealt with on a whole-of-service basis through the joint council process. The joint council process prescribed in the Federal Act was seen as being an appropriate mechanism to achieve outcomes on those matters. That is what this will do. It allows us the flexibility to meet a change in circumstances without a requirement to amend the Act. That, simply, is the reason why the Bill has been brought forward in this way. I thank Ms Szuty for her support to establish, as a fundamental principle of this new Act, that there shall be consultation, and that that consultation, as a minimum, shall be provided through the joint council.

Clause, as amended, agreed to.

Clause 46

**MR HUMPHRIES (4.56):** Madam Speaker, I have circulated an amendment to clause 46. I move:

Page 24, lines 23 and 24, subclause (3), omit the subclause, substitute the following subclause:

"(3) The Clerk shall be appointed by the Executive on the advice of the appropriate Standing Committee of the Legislative Assembly and the appointment of the Clerk shall be exercised in accordance with the merit principles laid down in section 65 insofar as they relate to an appointment."

This relates to the appointment of the Clerk of the Assembly. Madam Speaker, it is clear that there are two sorts of appointments which are possible under this legislation. One is the appointment of a person on the basis of merit. That entails a procedure to appear before a committee; the application of merit principles before that committee; the selection of the person who is best qualified to do a particular job. That is one sort of appointment made under this Bill. The other is an appointment of patronage, one where the government of the day has the right to choose a particular individual on the basis that

they happen to want this individual in this office, or they think it would be a good thing to have this person in this office. That sort of appointment is not subject to merit principles because it is made on the basis of the government of the day making a decision. It is as simple as that. We all accept that there should be both kinds of appointments under this framework. The question here is whether the appointment of the Clerk of the Assembly should be an appointment under the former or the latter category.

Madam Speaker, it is the contention of the Opposition in this place that the clerk should be, wherever possible, an appointment not subject to political processes. That might seem an ironic statement in the context of a person who services a political body; but it is our view that the person who is selected for the position of clerk should be the best possible person for the job, selected under merit review principles. I accept, Madam Speaker, that that is the process by which we have appointed clerks in the past. That is my understanding. I also understand that that broadly is the process which has been employed in other parliaments - that is, a committee has been established to select the most appropriate person for the position.

Madam Speaker, I think that we serve our community better by making the process both appear to be beyond politics and be actually beyond politics. Applying merit principles of the kind referred to in clause 65, I believe, would be appropriate in the case of the appointment of the Clerk of the Assembly. I am not suggesting that those principles should apply in all respects. Clearly, disciplinary matters are a matter for the Assembly, as is made clear in this division, Division 7, and promotion matters do not really apply since there really is nowhere to be promoted to from the office of clerk anyway. As far as appointment is concerned, it is very clear, in my view and in the view of the Opposition, that the merit principle should apply, and it should be made positively on the basis of those principles applying in clause 65 of the Bill.

I also believe, Madam Speaker, that, in order to ensure that that process is more consensual, it should not have that flavour of politics about it, if that is possible; that the appointment should be one undertaken in consultation not just with you, as Speaker, but also with the appropriate standing committee of the Legislative Assembly, of which, of course, you would be, under most circumstances, a member and, indeed, chairman. Madam Speaker, I submit that this is a better process. It is a fairer process. It produces appointments of a less political nature, a less contentious nature, than would be the case were it to proceed on the basis outlined already in the Bill. I commend that amendment to the house.

**MADAM SPEAKER:** Mr Humphries, did you want to move amendment No. 11 a bit later? I just want clarification.

**MR HUMPHRIES:** No, Madam Speaker. That has been withdrawn. I am moving just the one that I have circulated, Madam Speaker. That is all.

**MADAM SPEAKER:** Fine. That is okay.

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**MR KAINE** (5.00): I must say that when I first read this Bill clauses 46, 50 and 51 gave me more personal trouble than any others because we are accustomed to a form of government where the Executive and the legislature are separate from each other, and quite distinctly so. Here we have a Bill that gives the Executive the power and the responsibility to appoint, to suspend, to remove, or to retire the Clerk of the Assembly. It is a most unusual provision in a system based on the British Westminster system.

**Mr Stevenson:** Not if you have the numbers.

**MR KAINE:** That is true. When I was trying to figure out how to resolve the issue I came to the same conclusion probably that the Government came to. Under our arrangements there really is not anybody else that can do it. I suppose that we could have said that the appointment, suspension, removal and retirement of the clerk will be the responsibility of the Assembly, but that would give this Assembly an executive function that it should not have either. This is a legislative body. It should not be involved in such functions as these. I was prepared to go along with the general proposition that in the absence of a better proposal, and I could not think of one, we probably had to go along with this; but it was still at the back of my mind that it was inherently wrong.

I think that the amendment put forward by Mr Humphries goes a long way to resolving the issue in my mind. First of all, the Executive should make the appointment on the advice of the appropriate standing committee of the Assembly. I think that is appropriate. There is a presumption there that the Executive would not reject or act differently from a proposal put forward by an Assembly committee. Also, if we adopt the proposition that this should merely be merit based and that there should be no other considerations, that resolves to some degree the issue in my mind. I think this will go a long way to improving the Bill in regard to these matters.

**MS FOLLETT** (Chief Minister and Treasurer) (5.03): The Government is not opposed to this amendment, Madam Speaker.

Amendment agreed to.

**MR HUMPHRIES** (5.03): I move amendment No. 11, circulated in Mrs Carnell's name, which reads as follows:

11. Page 24, line 24, add the following subclause:

"(4) The Clerk is not subject to direction by the Executive in relation to the performance of his or her duties."

Madam Speaker, it would appear, on the face of clause 46, for it to be possible, since the clerk is appointed, in fact, by the Executive, for the clerk to be subject, like other positions appointed by the Executive, to direction by the Executive. I think we have a strange kind of hump-backed camel here that is part one thing and part the other.

The clerk is the servant of the Speaker and, through her, of the Legislative Assembly - one of the arms of government, the legislature. It is appropriate for him or her to be the servant of that body, and there may be situations where there would be conflict were he or she to be taking directions from the Executive.

**Mr Lamont:** You have convinced us.

**MR HUMPHRIES:** Fine. I will sit down then.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 50

**MS FOLLETT** (Chief Minister and Treasurer) (5.05), by leave: Madam Speaker, I move together amendments Nos 10 and 11:

10. Page 25, line 22, after subclause (4), insert the following subclause:

"(4A) If within 3 sitting days of the Assembly after the day on which the statement is laid before it, the Assembly -

(a) by resolution declares that the Clerk should not be removed from office; or

(b) rejects a motion for a resolution to declare that the Clerk should be removed from office;

the suspension terminates."

11. Page 25, line 25, subclause (5), omit "such a resolution", substitute "a resolution declaring that the Clerk should be removed from office".

Madam Speaker, I am proposing to amend clause 50 to overcome what is a technical oversight in relation to the suspension of the clerk. My proposal is to insert a new subclause 50(4A) and to amend subclause 50(5) to provide for the suspension of the Clerk of the Assembly to terminate on the Assembly negating a resolution for removal. Under the existing subclause 50(5), if the Assembly negatives a resolution to remove the clerk during the three sitting days' suspension, there is no provision for the suspension to terminate.

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Madam Speaker, I note that Mrs Carnell also has an amendment to clause 50 which is pretty much the same.

**Mrs Carnell:** It is identical.

**MS FOLLETT:** It is much the same. I move that amendment on the understanding that it will not attract opposition.

Amendments agreed to.

**MADAM SPEAKER:** Since the Government's amendments Nos 10 and 11 have been agreed to, you will not want to move your amendments Nos 12 and 13, will you, Mrs Carnell?

**Mrs Carnell:** I could.

**MADAM SPEAKER:** I think we will omit them.

Clause, as amended, agreed to.

Clauses 51 and 54, by leave, taken together

**MS FOLLETT** (Chief Minister and Treasurer) (5.07), by leave: I move together amendments Nos 12 and 13, which have been circulated in my name. They are as follows:

12. Page 25, line 36, clause 51, after subclause (1), insert the following subclauses:

"(1A) Notwithstanding anything contained in this section, where the Clerk -

(a) is an eligible employee for the purposes of the *Superannuation Act 1976* of the Commonwealth; and

(b) has not reached his or her maximum retiring age within the meaning of that Act;

the Clerk is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

"(1B) Notwithstanding anything contained in this section, where the Clerk -

(a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990* of the Commonwealth; and

(b) is under 60 years of age;

the Clerk is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act."

13. Page 26, line 16, clause 54, add the following subclause:

"(2) The Clerk has all the powers of a Chief Executive in relation to the staff assisting him or her as if the staff were employed in an administrative unit under the control of the office holder."

I am proposing that clause 51 be amended by inserting after subclause 51(1) new subclauses to provide that the clerk cannot be retired on invalidity grounds unless the Commonwealth Superannuation Board of Trustees has issued a certificate under the relevant Superannuation Act. The desirability of these provisions was advised by the Commonwealth Department of Finance after the Bill had been introduced. I understand that these are standard clauses advised by the Department of Finance. In relation to clause 54, I am proposing to amend that to clarify that the Clerk of the Assembly does have all the powers of a chief executive in respect of staff employed in the Legislative Assembly Secretariat. The staff of the secretariat are to be employed under the provisions of this Bill.

Amendments agreed to.

Clauses, as amended, agreed to.

Clause 57

**MS FOLLETT** (Chief Minister and Treasurer) (5.08): Madam Speaker, I move amendment No. 14, which has been circulated in my name. It reads:

14. Page 27, lines 32 and 33, paragraph (2)(b), omit the paragraph, substitute the following paragraph:

"(b) in relation to the classification of offices in the Office of the Director of Public Prosecutions, be exercised by the Director of Public Prosecutions."

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The purpose of this amendment is to omit from paragraph 57(2)(b) the reference to the Legal Aid Commission and to put in a reference to the Director of Public Prosecutions. This is consequential on the passage of my first amendment, which changed the status of both of those bodies under this Bill.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 58 and 59, by leave, taken together

**MS FOLLETT** (Chief Minister and Treasurer) (5.09), by leave: I move together amendments Nos 15, 16 and 17 circulated in my name. They are as follows:

15. Page 28, line 1, subclause 58(2), omit "The Commissioner", substitute "Subject to subsection 59(2), the Commissioner".

16. Page 28, lines 17 to 27, subclauses 58(5) and (6), omit the subclauses.

17. Page 28, line 28 to page 29, line 9, clause 59, omit the clause, substitute the following clause:

**Application of subsection 58(2) to ACT Electricity and Water Authority and Office of the Director of Public Prosecutions**

"59. (1) The power of the Commissioner to give a direction under subsection 58(2) shall, in relation to the classification of an office, or a class of offices, in the staff of the Australian Capital Territory Electricity and Water Authority, be exercised by the Authority and any direction given by the Authority under that subsection shall be given to the Chief Executive Officer of the Authority.

"(2) The Commissioner shall not give a direction under subsection 58(2) in relation to an office in the Office of the Director of Public Prosecutions."

These amendments relate to the reclassification of offices. Clause 58 is to be amended by omitting subclauses 58(5) and (6). These subclauses are to be reinserted as a new clause 59 to replace the existing clause 59, "Employment streams", which is to be removed as agreed in negotiations with unions. Madam Speaker, this approach will assist implementation of the legislation by avoiding extensive renumbering of the Bill. As to the removal of employment streams, Madam Speaker, we put that provision in on the original understanding that that was something which unions wanted. In the consultation process it became clear that that was not their will, so we are removing it.

Clause 59 is to be amended by omitting the existing clause on employment streams as the division of the service into employment streams is no longer required, as I just explained. A new clause 59 will be created by inserting the immediately preceding two subclauses 58(5) and (6) under a new heading called "Application of subsection 58(2) to ACT Electricity and Water Authority and Office of the Director of Public Prosecutions". Again, this will save a lot of renumbering in the Bill. The effect of the new clause 59 is that ACTEW and the DPP may reclassify their positions without reference to the Commissioner for Public Administration. It reflects the powers that have been conferred on the CEO of both of those bodies. I commend those amendments to the Assembly.

Amendments agreed to.

Clauses, as amended, agreed to.

**MR LAMONT** (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (5.12): Madam Speaker, I seek a short suspension, probably for two minutes.

**MADAM SPEAKER:** Is it the wish of the Assembly to accept that?

**Mr De Domenico:** Yes.

**Mr Stevenson:** I have no idea. I suppose so.

**MR LAMONT:** It is to enable us to inform you, Mr Stevenson, of a process that may expedite proceedings.

**Mr Stevenson:** Normally one mentions this before. But go to it; you have the numbers.

**MR LAMONT:** I had intended to come to you because I knew that you did not have the numbers.

#### **Sitting suspended from 5.12 to 5.18 pm**

**MR LAMONT** (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (5.18): Madam Speaker, I have a procedural proposal. We need to deal with clauses 63, 65 and 68 separately. At the conclusion of consideration of clause 68, we then take clause 70 and all subsequent amendments through to clause 234 inclusive. We treat them as a whole. Then we deal with clauses 235, 236, 237, 238 and 239, and then take clause 244 and go through to the end of Schedule 4 as a whole, as well.

**MADAM SPEAKER:** Mr Lamont, what about clause 64? You mentioned clauses 63, 65 and 68. We have clause 64 on the schedule. Did you mean to include it?

**MR LAMONT:** Yes.

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**MADAM SPEAKER:** Members, we are going to do clauses 63, 64, 65 and 68, as on our sheet. When we get to clause 68 we move, by leave from you, from clause 70 to clause 234; then from clause 234 to clause 244 separately; and then from clause 244 to the end.

Clause 63

**MS FOLLETT** (Chief Minister and Treasurer) (5.19): I move amendment No. 18 standing in my name, which reads as follows:

18. Page 31, line 35, paragraph (4)(e), omit "under", substitute "for the purposes of".

The effect of that amendment is simply to clarify a point that has been identified by the Scrutiny of Bills Committee. They believed that it was not clear whether the relevant standard was being made under clause 91 or under clause 251. It is a technical amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 64

**MS FOLLETT** (Chief Minister and Treasurer) (5.19), by leave: I move together amendments Nos 19 and 20, which have been circulated in my name. They read:

19. Page 32, lines 3 to 6, subclause (1), omit all words after "Australian Capital Territory Electricity and Water Authority", substitute "and the Office of the Director of Public Prosecutions as if a reference in those provisions to the Commissioner were a reference to the Authority or to the Director of Public Prosecutions respectively".

20. Page 32, lines 8 and 9, subclause (2), omit "Legal Aid Commission (A.C.T.)", substitute "Office of the Director of Public Prosecutions".

These are consequential amendments following the Assembly's decision to remove the Legal Aid Commission from the application of the Bill and to make the Director of Public Prosecutions an autonomous instrumentality. We need to amend clause 64 to adjust references to those two bodies.

Amendments agreed to.

Clause, as amended, agreed to.

Clause 65

**MS FOLLETT** (Chief Minister and Treasurer) (5.20): I move amendment No. 21 standing in my name, which reads:

21. Page 32, lines 16 and 17, paragraph (1)(b), omit the paragraph.

This, again, is an amendment which is necessary as a consequence of our earlier removal of reference to employment streams. We need to take those words out of this clause, which deals with the application of the merit principle.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 68

**MS FOLLETT** (Chief Minister and Treasurer) (5.21): I move amendment No. 22 standing in my name, Madam Speaker. It reads:

22. Page 33, line 32, paragraph (1)(a), omit "Legal Aid Commission (A.C.T.)", substitute "Office of the Director of Public Prosecutions".

Again, this is consequent upon our having removed the Legal Aid Commission from the ambit of the Bill and changing the status of the DPP. Again it is an editorial matter.

Amendment agreed to.

**MR STEVENSON** (5.22): Madam Speaker, I move the amendment to clause 68 subclause (2)(b) standing in my name, and I seek the leave of the Assembly to add four words at the end of the amendment, those words being, "which is subsequently granted". I have notified members.

Leave granted.

**MR STEVENSON**: My amendment now reads as follows:

3. Page 34, line 12, paragraph (2)(b), after "permanent resident of Australia" add "who has applied for Australian citizenship which is subsequently granted;".

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Subclause (2) says:

A person shall not be appointed to the Service unless -

... ..

(b) the person is an Australian citizen or a permanent resident of Australia; and

... ..

My amendment adds the words "who has applied for Australian citizenship which is subsequently granted;".

Madam Speaker, I believe that anyone who becomes a member of the ACT Government Service should have certain commitments. They should be committed to Canberrans; indeed, to all people in Australia. They should be committed to the country as a whole. They should be committed to our democratic beliefs, our rights and our freedoms. They should be someone who upholds the law. I do not think anybody would disagree with that. We should know that the person has this commitment. Let me read the oath that someone would make when becoming a citizen of Australia. It says:

From this time forward, under God, I pledge my loyalty to Australia and its people, whose democratic beliefs I share, whose rights and liberties I respect, and whose laws I will uphold and obey.

There is, of course, a second pledge which covers the same principles. The points that I made initially, that someone should have a commitment to, are the very things that someone pledges a commitment to at their citizenship ceremony. How could we say that people should not have those commitments? Is there anything there that they should not have? Should we not be concerned that they be committed to upholding the law, committed to our rights and freedoms, committed to Canberrans and all Australians and to the country as a whole? I do not think that is a debatable point. We all agree that people, particularly those in the public service, should have those commitments.

Why particularly in the public service? We can, as we well know, have people in Australia who are not citizens of Australia. They could be visitors or permanent residents; but they have not made the commitment, perhaps, to serve this country to the same degree. I am not suggesting that someone who is not a citizen is working against the country or anything like that. That point should not be made. I simply am saying that someone should make the commitment, and all people who pay for the operation of the public service should expect no less a commitment. I understand that when someone joins the public service, regardless of who or what they are, they make some commitments, and that is good. However, these are stronger commitments. This is a stronger pledge. This shows that someone is on board, and on board solidly.

We could look at the difference between "subsequently granted" and someone who may be a permanent resident but has applied for citizenship. If I said only, "The person is an Australian citizen", that would prevent anybody who has applied for citizenship but has not yet been granted it from becoming a public service officer. There should be only two reasons why that would be withdrawn. The first is that they apply for citizenship, join the public service, and then withdraw their application. That would not be what we want, if we agree that someone should have made the commitment to becoming an Australian citizen. The second point is that they were refused citizenship. I am sure that I do not need to go into the details of why we should not want in the public service someone who has been refused citizenship. It is an important point. We need people who have a commitment that is stronger than that of someone with a lesser commitment. That is the point I make. I commend the amendment to members.

**MS FOLLETT** (Chief Minister and Treasurer) (5.27): The Government will be opposing Mr Stevenson's amendment. I should point out, before I argue for our opposition, that I believe that, at least technically, the words Mr Stevenson has had leave to add to his amendment are nonsensical. I do not mean that in a pejorative sense, but they do not make any sense. If you read the clause, it says that a person shall not be appointed to the service unless the person is an Australian citizen or a permanent resident of Australia. Mr Stevenson's amendment would add the words "who has applied for Australian citizenship which is subsequently granted". It seems to me that the clause as it stands already has a requirement for Australian citizenship at the time of appointment. By saying "which is subsequently granted", Mr Stevenson is implying that the granting must take place before the appointment, and in that case the person is an Australian citizen. I do not understand the point of his added words. I suggest to members that it would not make for a very good Bill if those words were to be supported.

I do not believe that it is necessary to have the requirement that an applicant be a citizen as well as being a permanent resident. Indeed, I believe that it could well be seen as discriminatory if we were to impose that requirement. I understand that the Commonwealth does have such a requirement, but they have their own reasons for doing that and there is no reason why we should slavishly follow what the Commonwealth has done. For instance, they probably have reasons of national security and that sort of thing to consider, which we do not. I understand that most States, in looking at appointments to their public services, do not require citizenship. It appears to be only the Commonwealth that does. I do think that narrowing down a person's ability to apply for a job in that way is needless and could be discriminatory.

There is another reason why I will be opposing Mr Stevenson's amendment. One of the things this Bill does is appoint as officers of the service many hundreds of our continuing employees, so-called. These employees are mostly blue-collar workers and are currently not officers. They are currently treated as second-class citizens. Of course, many of those staff may not be Australian citizens, but it is still my wish to appoint them to our new service. For that reason as well, I oppose Mr Stevenson's amendment.

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**MR STEVENSON (5.30):** I need to refer to the wording of the Bill. The clause states in part:  
the person is an Australian citizen or a permanent resident of Australia;

The key word there is "or". To put a qualifier on the second part of that choice, that is, "a permanent resident of Australia", is what I have done. The qualifier is the words "who has applied for Australian citizenship which is subsequently granted". The word "applied" is relevant. If you check subclause (2), you will see that a person can be appointed to the public service if he is a permanent citizen who has applied for Australian citizenship which is subsequently granted.

If you are suggesting that you cannot have something in there that says "subsequently granted", that is not my advice. My advice is that there is no problem with that; that after a period of time, if that is not granted or if it is withdrawn, they would then not meet the criteria and, if they had been appointed, they would be unappointed. I covered those two specific points by saying that, if they put an application in and then withdraw it, it shows that they do not have the commitment. If they do not receive citizenship, it suggests that we would not want to have them anyway.

As to being discriminatory, it is important that we look at the definition of the word "discrimination". It is to be able to tell differences. Everything everybody does, every day of their lives, discriminates against one thing. You might eat an apple instead of a banana. You are discriminating against one or the other. If anybody does not know that they should read the dictionary. So everything is discriminatory. The Chief Minister says that my amendment may be discriminatory. If you suggest that that is logical, you have to say that the discrimination is already in the Bill. The Bill discriminates against anybody who is not a permanent resident or an Australian citizen. As far as that point goes, I do not think it is relevant either.

I note that the Chief Minister did not say anything at all - not a single word - about the points I raised in relation to pledging commitment to Australia, to the people and to our laws. That did not surprise me because it is a very hard subject to answer. That is why I believe that we should require people to be Australian citizens. They should have that commitment. I have not surveyed it, but I would think that would be the majority view. Why should not someone make that commitment if they want to work directly in the service of the nation or part of it? No-one has handled that point.

The other two points I heard I do not consider to be relevant. The major point I raised, which is why I moved the amendment, is particularly relevant; but no-one has handled it. We have some people over the other side. How about mentioning a reason? At least have a go at it.

Amendment negated, Mr Stevenson dissenting.

**MS FOLLETT** (Chief Minister and Treasurer) (5.36), by leave: I move together amendments Nos 23 and 24, which read:

23. Page 33, line 34, paragraph (1)(a), omit "unanimously".

24. Page 34, lines 4 to 6, paragraph (1)(b), omit all words after "Water Authority", substitute "or the Office of the Director of Public Prosecutions, being an appointment in respect of which the Commissioner has been consulted in accordance with section 75 - by the Authority or the Director of Public Prosecutions respectively".

The first amendment is to remove from clause 68 the reference to a unanimous decision of an executive staffing committee. This amendment is necessary for consistency with amendments to clause 74 on the executive staffing committee. The second amendment further amends clause 68 to remove references to the Legal Aid Commission and to put in the Director of Public Prosecutions, as a result of our previous decisions.

Amendments agreed to.

Clause, as amended, agreed to.

Debate interrupted.

#### **PERSONAL EXPLANATION**

**MR CONNOLLY** (Attorney-General and Minister for Health): Madam Speaker, I seek leave under standing order 46 to make a brief statement.

**MADAM SPEAKER:** Please proceed.

**MR CONNOLLY:** I may have inadvertently misled the Assembly during question time last week when I sourced to the Motor Trades Association statements in a 1992 *Canberra Times* article that oil companies were to close 12 service stations. In fact the correct sourcing would have been Shell Australia. I had the substance clear in my mind, but the source was confused; and at the earliest possible opportunity I have sought to correct the record.

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**PUBLIC SECTOR MANAGEMENT BILL 1994**  
**Detail Stage**

Debate resumed.

Clauses 70 to 234 (excluding postponed clauses), by leave, taken together

**MS FOLLETT** (Chief Minister and Treasurer) (5.38), by leave: I move together the following amendments:

25. Page 36, line 8, subclause 70(8), omit "subsection (7)", substitute "subsections (7) and (11)".

26. Page 36, line 32, clause 70, add the following subclauses:

"(11) Subsection (8) does not apply in relation to confirmation of the appointment of an officer who is absent on specified defence service.

"(12) In subsection (11) -

"specified defence service" means -

(a) continuous full-time service in a part of forces that are -

(i) the Emergency Forces; or

(ii) the Reserve Forces;

within the meaning of the *Defence Act 1903* of the Commonwealth; or

(b) service in a part of those Forces for such periods as are fixed by or in accordance with the regulations made under the *Defence Act 1903* of the Commonwealth, the *Naval Defence Act 1910* of the Commonwealth or the *Air Force Act 1923* of the Commonwealth;

but does not include service rendered by a member of a part of those Forces by virtue of a voluntary undertaking by him or her to render continuous full-time service for a period for which he or she is not otherwise bound so to serve under any of those Acts."

27. Page 38, line 16, clause 72, after subclause (1), insert the following subclause:

"(1A) Where a vacancy exists, or is expected to occur within the prescribed period, in the office referred to in paragraph (a) of the definition of 'Chief Executive Officer, Calvary Hospital' in subsection 26(4), the Commissioner shall ensure that the vacancy is filled in accordance with the requirements of this Act and the prescribed selection procedures."

28. Page 39, line 13, subclause 74(2), omit "An", substitute "Subject to subsection (2A), an".

29. Page 39, lines 18 to 22, paragraph 74(2)(c), omit the paragraph, substitute the following paragraph:

"(c) a person chosen by the Commissioner and the relevant Chief Executive from a list of persons whom they consider to be -

(i) independent of the administrative unit in which the vacancy exists or is expected to occur; and

(ii) suitably qualified for membership of a Committee;

being a list of persons approved by the Chief Minister following consultation with the organisation that is, in accordance with the management standards, the principal relevant staff organisation in relation to Senior Executive Service offices."

30. Page 39, lines 23 to 29, subclause 74(3), omit the subclause, substitute the following subclauses:

"(2A) Where the Commissioner receives a recommendation for filling a vacancy in the office referred to in subsection 72(1A) by appointment or promotion, the Executive Staffing Committee arranged under subsection (1) shall be constituted for the purpose of this section by -

(a) the Commissioner or an officer nominated by the Commissioner;

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- (b) a person nominated by Calvary Hospital A.C.T. Incorporated; and
- (c) the Chief Executive of the administrative unit known as the Chief Minister's Department or an officer nominated by that Chief Executive.

"(3) The Chairperson of an Executive Staffing Committee shall be -

- (a) in the case of a committee referred to in subsection (2) that is to consider a recommendation for filling a vacancy in the administrative unit to which responsibility for the administration of this Part is allocated under section 14 - the member of the committee referred to in paragraph (2)(c);
- (b) in the case of a committee referred to in subsection (2) that is to consider any other recommendation - the member of the committee referred to in paragraph (2)(a); or
- (c) in the case of a committee referred to in subsection (2A) - the member referred to in paragraph (2A)(a)."

31. Page 39, lines 30 to 33, subclause 74(4), omit the subclause, substitute the following subclause:

"(4) Where an Executive Staffing Committee, either unanimously or by a majority of its members, endorses a recommendation for the appointment or promotion of a person to a Senior Executive Service office, the Commissioner shall give effect to the recommendation by appointing or promoting the person to that office, as the case requires."

32. Page 39, lines 34 and 35, subclause 74(5), omit the subclause, substitute the following subclause:

"(5) Where an Executive Staffing Committee does not, either unanimously or by a majority of its members, endorse a recommendation, the recommendation lapses."

33. Page 40, lines 3 to 10, clause 75, omit the clause, substitute the following clause:

**Appointment or promotion of SES officers in ACT Electricity and Water Authority and Office of Director of Public Prosecutions**

"75. Where the Australian Capital Territory Electricity and Water Authority or the Director of Public Prosecutions receives a recommendation for the appointment or promotion of a person to a Senior Executive Service office in the Authority or the Office of the Director of Public Prosecutions respectively, the Authority or the Director may, after consultation with the Commissioner, appoint or promote the person to fill that office."

34. Page 43, lines 25 to 27, subclause 80(6), omit the subclause, substitute the following subclause:

"(6) For the purposes of making a determination under subsection (5), the compensation and any conditions to be specified in the determination shall be in accordance with the requirements, if any, of the management standards."

35. Page 44, lines 5 to 14, subclause 80(11), omit the subclause.

36. Page 44, lines 23 and 24, clause 81, omit "a complying superannuation fund within the meaning of the *Superannuation Guarantee (Administration) Act 1992*", substitute "an approved superannuation fund within the meaning of the *Superannuation (Productivity Benefit) Act 1988*".

37. Page 46, line 32, subclause 85(1), omit "made", substitute "brought".

38. Page 46, line 34, subclause 85(1), insert "more or" before "most".

39. Page 46, line 35, subclause 85(2), insert "more or" before "most".

40. Page 47, line 13, subclause 85(3), insert "more or" before "most".

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41. Page 57, line 31 to page 58, line 30, clause 97, omit the clause, substitute the following clause:

**Transfers and promotions to specified offices may be made in accordance with order of passing examinations**

"97. (1) The management standards may specify, in relation to a specified class of offices, circumstances in which a vacancy in an office or offices included in that class of offices may be filled by a transfer or promotion under this section.

"(2) The Commissioner may, from time to time, by notice published in the *Gazette*, notify, for the purposes of this section, an examination in relation to offices included in a specified class of offices.

"(3) Where -

(a) in circumstances specified in relation to a class of offices under subsection (1) there is a vacancy in an office or offices included in that class; and

(b) an examination is specified in a notice under subsection (2) in relation to that class of offices;

then, if the Chief Executive of the administrative unit in which the vacant office exists or the vacant offices exist -

(c) in a case where only 1 officer has passed the examination and is otherwise eligible for transfer or promotion to that office or those offices - transfers or promotes that officer to that office or to one of those offices; or

(d) in a case where 2 or more officers have passed the examination and are otherwise eligible for transfer or promotion to that office or those offices - transfers or promotes those officers to that office or those offices in accordance with the order of merit in which they passed the examination;

the transfer or promotion, or each of the transfers or promotions, shall be taken to have been made under this section and not under section 83.

"(4) The promotion of an officer to an office under this section takes effect on the day on which the promotion is made, and salary at the rate applicable to that office is payable to the officer on and from that day.

"(5) In this section -

(a) a reference to an examination shall be read as including a reference to a test; and

(b) a reference to passing an examination shall be read as including a reference to completing satisfactorily any task required to be performed for the purposes of assessment."

42. Page 59, line 4, paragraph 98 (1)(b), omit "classification that is specified in the notice", substitute "specified classification".

43. Page 62, lines 3 to 18, subclause 100(1), omit the subclause.

44. Page 65, line 30, subclause 104(1), omit "lodged", substitute "brought".

45. Page 65, line 32, subclause 104(1), insert "more or" before "most".

46. Page 65, line 34, subclause 104(2), insert "more or" before "most".

47. Page 66, line 8, subclause 104(3), insert "more or" before "most".

48. Page 66, line 32, subclause 106(1), after "unit", insert ", otherwise than to perform the duties of a Senior Executive Service office,".

49. Page 67, line 4, after subclause 106(1), insert the following subclause:

"(1A) The Commissioner may temporarily employ a person to perform the duties of a Senior Executive Service office in the Service."

50. Page 67, line 15, subclause 108(1), omit "A", substitute "Subject to subsection (1A), a".

51. Page 67, line 17, after subclause 108(1), insert the following subclause:

"(1A) A person shall not be engaged under subsection (1) to perform the duties of a position for a period of 12 months or longer unless the principal relevant staff organisation in relation to that position has been consulted in connection with the temporary employment of persons for a fixed-term in that position."

52. Page 67, lines 21 to 28, subclause 108(3), omit the subclause, substitute the following subclauses:

"(3) Subject to subsection (3A), the relevant Chief Executive may extend the period of employment of a person engaged to perform the duties of a position under subsection (1) for a period of less than 12 months, if -

(a) the total period of employment (including the period as so extended) does not exceed 12 months; and

(b) the principal relevant staff organisation in relation to the position has agreed to the proposed extension of the term of temporary employment of the person in that position.

"(3A) The period of temporary employment of a person in a position shall not be extended under subsection (3) if the principal relevant staff organisation in relation to that position has notified the Commissioner that it is opposed to the extension of temporary employment in respect of a class of positions that includes that position."

53. Page 70, line 14 to page 72, line 5, subclauses 115(3) and (4), omit the subclauses, substitute the following subclauses:

"(3) Subject to subsection (4), an appointment made by virtue of subsection (2) shall be made in accordance with Part V.

"(4) Notwithstanding section 70, the appointment of a Commonwealth officer to an office in the Service shall not be an appointment on probation if the Commonwealth officer's appointment to the Australian Public Service -

- (a) was an appointment without probation; or
- (b) was an appointment on probation and has been confirmed.

"(5) If, immediately before the appointment of a Commonwealth officer to the Service takes effect -

- (a) the appointee is a Commonwealth officer by virtue of an appointment on probation;
- (b) that appointment has not been confirmed; and
- (c) the appointment of the Commonwealth officer to the Service is an appointment on probation;

section 70 has effect as if the period of probation for the purposes of the appointment to the Service had commenced when the period of probation as a Commonwealth officer commenced.

"(6) Where the appointment of a Commonwealth officer to an office in an administrative unit would be a transfer of the officer to that office if the Commonwealth officer had, immediately before being so appointed, been a member of the Service having the same classification as he or she had as a Commonwealth officer, the following provisions have effect:

- (a) the provisions of Division 5 of Part V apply to the appointment as if -
  - (i) the appointment were a transfer (in this subsection referred to as a 'deemed transfer') of the Commonwealth officer to the office by the Chief Executive of the administrative unit, being a transfer -
- (A) in a case where the appointment is in accordance with the advice of a Joint Selection Committee constituted for the purposes of section 88 - made under section 88;

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- (B) in a case where the appointment is in accordance with the unanimous advice of a Joint Selection Committee constituted for the purposes of section 89 - made under section 88; or
- (C) in any other case - made under section 83; and
- (ii) the Commonwealth officer were an officer within the meaning of this Act;
- (b) the deemed transfer takes effect as provided under section 91;
- (c) subject to paragraph (d), the appointment takes effect on the day on which the appointee resigns from the Australian Public Service, being a day not earlier than the day on which the deemed transfer takes effect;
- (d) the appointment does not take effect if, when the deemed transfer takes effect, the appointee has already ceased to be a member of the Australian Public Service;
- (e) if the appointee does not commence to perform the duties of the office within a reasonable time after the appointment takes effect, the Chief Executive may cancel the appointment;
- (f) if the appointee had, immediately before his or her appointment to the Service, accrued a period of long service leave or leave of absence on account of illness, he or she becomes eligible, upon his or her appointment, for the grant of an equal period of long service leave or leave of absence on account of illness, as the case may be;
- (g) subject to paragraph (f), the period of continuous service of the Commonwealth officer in the Australian Public Service immediately before his or her appointment to the Australian Capital Territory Government Service shall be

recognised as prescribed for the purposes of determining the leave and other benefits to which the Commonwealth officer is entitled under this Act and the management standards.

"(7) Where the appointment of a Commonwealth officer to an office in an administrative unit is not an appointment to which subsection (6) applies, the following provisions have effect:

(a) the provisions of Division 5 of Part V and the provisions of the Merit Protection Act apply to the appointment as if -

(i) the appointment were a promotion (in this subsection referred to as a 'deemed promotion') of the Commonwealth officer to the office by the Chief Executive of the administrative unit, being a promotion -

(A) in a case where the appointment is in accordance with the advice of a Joint Selection Committee constituted for the purposes of section 88 - made under section 88;

(B) in a case where the appointment is in accordance with the unanimous advice of a Joint Selection Committee constituted for the purposes of section 89 - made under section 88; or

(C) in any other case - made under section 83; and

(ii) the Commonwealth officer were an officer within the meaning of this Act;

(b) the deemed promotion takes effect according to the following rules:

(i) if -

(A) the deemed promotion is a non-appellable promotion;

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(B) an application for review of the deemed promotion by the Merit Protection Agency is made under subsection 87(1);

(C) the Agency makes a decision under paragraph 87(3)(b) affirming the promotion;

the deemed promotion takes effect on the day after the day on which the Merit Protection Agency makes its decision;

(ii) if -

(A) the deemed promotion is a non-appellable promotion;

(B) an application for review of the deemed promotion by the Merit Protection Agency is made under subsection 87(1);

(C) the Agency makes a recommendation under subsection 87(4) that the promotion be cancelled; and

(D) the Chief Executive makes a decision under subsection 87(6) not to cancel the deemed promotion;

the deemed promotion takes effect on the day after the day on which the Chief Executive makes his or her decision;

(iii) in any other case, the deemed promotion takes effect as provided under section 91;

(c) subject to paragraph (d), the appointment takes effect on the day on which the appointee resigns from the Australian Public Service, being a day not earlier than the day on which the deemed promotion takes effect;

- (d) the appointment does not take effect if, when the deemed promotion takes effect, the appointee has already ceased to be a member of the Australian Public Service;
- (e) if the appointee does not commence to perform the duties of the office within a reasonable time after the appointment takes effect, the Chief Executive may cancel the appointment;
- (f) if the appointee had, immediately before his or her appointment to the Service, accrued a period of long service leave or leave of absence on account of illness, he or she becomes eligible, upon his or her appointment, for the grant of an equal period of long service leave or leave of absence on account of illness, as the case may be;
- (g) subject to paragraph (f), the period of continuous service of the Commonwealth officer in the Australian Public Service immediately before his or her appointment to the Australian Capital Territory Government Service shall be recognised as prescribed for the purposes of determining the leave and other benefits to which the Commonwealth officer is entitled under this Act and the management standards."

54. Page 72, lines 19 and 20, subclause 117(1), omit ", in circumstances prescribed for the purposes of this subsection,".

55. Page 82, line 31, subparagraph 133(2)(b)(iii), omit "subsection 132(3)", substitute "this subsection".

56. Page 83, lines 10 and 11, paragraph 133(3)(a), omit "prescribed for the purposes of this paragraph", substitute "of 14 days commencing on the day on which the notice is given to the officer".

57. Page 95, lines 31 to 36, subclause 148(1) (definition of "officer"), omit the definition, substitute the following definition:

"'officer' includes -

- (a) an employee;
- (b) a statutory office holder; and

(c) a person employed by a Territory instrumentality or by a statutory office holder;"

58. Page 97, line 20, after subclause 150(2), insert the following subclause:

"(2A) Management standards made in accordance with this section may modify sections 154, 155, 156 and 157 in relation to officers who have been employed in the Independent State of Papua New Guinea."

59. Page 99, line 8, paragraph 154(2)(a), omit "Part", substitute "section".

60. Page 100, line 10, paragraph 155(4)(c), add "or".

61. Page 100, line 11, paragraph 155(4)(d), omit "or".

62. Page 100, line 12, paragraph 155(4)(e), omit the paragraph.

63. Page 100, line 15, subclause 155(4), omit ", (d) or (e)", substitute "or (d)".

64. Page 100, line 31, paragraph 155(5)(a), omit ", (d) or (e)", substitute "or (d)".

65. Page 102, line 1, subclause 156(3), after "(5)", insert "and the management standards".

66. Page 102, lines 4 to 27, subclause 156(4), omit the subclause, substitute the following subclause:

"(4) Subject to subsection (5), where -

(a) an officer is or has been absent from his or her employment on leave of absence without pay (not being leave of absence on account of illness or in respect of a period of defence employment); and

(b) the leave of absence is the subject of a determination by the approving authority at the time of the grant of that leave or at a subsequent time that the period during which the officer is or was so absent be included in his or her period of employment for the purposes of this Part;

the officer shall be taken, for the purposes of this Part, to have been in that employment during the period of the absence."

67. Page 105, line 12, after subclause 158(8), insert the following subclauses:

"(8A) Subject to subsection (8B), where, but for this subsection -

- (a) an amount would become due to a person under this section; and
- (b) the amount would become due solely because of the resignation of the person from the Service for the purpose of his or her being appointed to the Australian Public Service under a provision corresponding to section 115;

the amount does not become due on the person's resignation from the Service.

"(8B) Where, but for subsection (8A) -

- (a) an amount would become due under this section to a person to whom section 166 applies; and
- (b) the amount would become due solely because of the resignation of the person from the Service for the purpose of his or her being appointed to the Australian Public Service under a provision corresponding to section 115 (being the first occasion on which he or she had resigned for that purpose);

the amount that the person shall receive shall be the difference between -

- (c) the amount that the person would have received by virtue of the operation of section 166 but for subsection (8A); and
- (d) the amount that the person would have received but for that subsection if section 166 did not apply to him or her."

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68. Page 107, line 10, after subclause 159(8), insert the following subclauses:

"(8A) Subject to subsection (8B), where, but for this subsection -

- (a) an amount would become due to a person under this section; and
- (b) the amount would become due solely because of the resignation of the person from the Service for the purpose of his or her being appointed to the Australian Public Service under a provision corresponding to section 115;

the amount does not become due on the person's resignation from the Service.

"(8B) Where, but for subsection (8A) -

- (a) an amount would become due under this section to a person to whom section 166 applies; and
- (b) the amount would become due solely because of the resignation of the person from the Service for the purpose of his or her being appointed to the Australian Public Service under a provision corresponding to section 115 (being the first occasion on which he or she had resigned for that purpose);

the amount that the person shall receive shall be the difference between -

- (c) the amount that the person would have received by virtue of the operation of section 166 but for subsection (8A); and
- (d) the amount that the person would have received but for that subsection if section 166 did not apply to him or her."

69. Page 117, lines 21 to 23, clause 167 (definition of "officer"), omit the definition, substitute the following definition:

"'officer' includes -

- (a) an employee;
- (b) a statutory office holder; and
- (c) a person employed by a Territory instrumentality or a statutory office holder;"

70. Page 119, line 16, paragraph 170(3)(a), omit "or".

71. Page 119, line 20, paragraph 170(3)(b), add "or".

72. Page 119, line 20, subclause 170(3), add the following paragraph:

"(c) where paragraphs (a) and (b) do not apply to the person, while she is employed by a prescribed body or a prescribed organisation."

73. Page 119, lines 21 to 23, subclause 170(4), omit the subclause.

74. Page 128, line 31, subclause 181(6), omit "Convenor", substitute "Chairperson".

75. Page 144, line 16, subclause 192(3), omit "159(1)", substitute "188(1)".

76. Page 176, line 5, paragraph 234(b), omit "231", substitute "232".

These amendments, which I gather are not controversial, arise as a result of the consultation process, as a result of the recommendations of the Scrutiny of Bills Committee, or as a result of editorial redrafting. I commend them to the Assembly.

Amendments agreed to.

Clauses, as amended, agreed to.

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Clause 235

**MS FOLLETT** (Chief Minister and Treasurer) (5.40): I move:

77. Page 176, lines 12 to 20, subclause (1), omit the subclause, substitute the following subclause:

"(1) The provisions of the Merit Protection Act apply by force of this subsection to the Australian Capital Territory and to officers and employees as if -

(a) the Australian Capital Territory were a Commonwealth authority within the meaning of that Act; and

(b) each officer or employee were a Commonwealth employee within the meaning of that Act."

This amendment is aimed at omitting the existing drafting and inserting some new drafting in order to provide that the provisions of the Merit Protection Act apply to officers and employees of the Territory as if the ACT were a Commonwealth authority and the officers and employees were Commonwealth employees. Following consultation with the Commonwealth and in the light of the drafting of the Commonwealth's own Bill entitled Australian Capital Territory Public Service (Consequential Provisions) Bill 1994, the provisions relating to the application of the Commonwealth Merit Protection Act need to be adjusted so that they pick up that slight change in the drafting. Again, it is a technical amendment, and I commend it to the Assembly.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 236

**MRS CARNELL** (Leader of the Opposition) (5.42): We are opposing the clause, Madam Speaker. The Liberal Party will be moving to delete Part XII, "Whistle Blowing". The reason for that is fairly obvious. There is already whistleblower legislation on the table, and most of the recommendations of the committee that looked at this legislation were rejected. In fact, the Government seemed to reject the select committee's recommendations fairly dramatically across the board.

There is no commitment from the Government that there will be stand-alone legislation in this Assembly within a particular period, which I believe should not be longer than three months. If we had that commitment, this side of the house could have supported this Part of the Bill. Unfortunately, we cannot have that faith until the Chief Minister categorically puts on the record her support for the sort of stand-alone whistleblower legislation recommended by the committee set up by the Assembly. Such stand-alone whistleblower legislation would give to public servants the rights they deserve and would ensure that they are protected in circumstances, where there is not a promotion involved, where

a public servant believes that particular information would be of benefit to the Government or should be brought forward or made public. There is nothing in the Government's legislation to protect those sorts of people from any unfair approaches by the Government or by their superiors.

As you would also be aware, in stand-alone legislation there is a capacity to cover people who are not public servants or contractors to the public service. I very strongly support a Bill that is substantially broader than the Government's current legislation. Rather than debate whistleblowers again in this place, I indicate that the Opposition strongly supports stand-alone legislation. We strongly support the committee's recommendations that that should happen. We support the recommendation that the Bill that is already on the table be the basis for that legislation. As we have no commitment from the Government along those lines at this stage, we will be moving to delete Part XII.

**MS SZUTY (5.45):** Madam Speaker, I support the inclusion of this clause in the Public Sector Management Bill for the time being. I would like to draw the Assembly's attention to recommendation 7 of the report of the Select Committee on the Establishment of an ACT Public Service, which stated:

The committee recommends that the whistleblowing provisions of the Public Sector Management Bill (Division XII) should remain in place until such time as stand alone legislation is passed by the Assembly.

The committee also recommended that consideration of the stand-alone legislation was an important priority. I note that it is one the newly created Standing Committee on the Public Sector will get to, I believe sooner rather than later. I think it would be the desire of the former members of the Select Committee on the Establishment of an ACT Public Service to address this matter expeditiously. We did have some discussions about the whistleblowing provisions in both the Public Sector Management Bill and Mrs Carnell's Public Interest Disclosure Bill during the committee process, but it would be fair to say that time prevented us from dealing in detail with the provisions of Mrs Carnell's Bill and with the whistleblowing section of the Public Sector Management Bill. Madam Speaker, this is an issue the Assembly will return to, and I undertake, as a member of the Standing Committee on the Public Sector, to deal with the matter as expeditiously as I can.

**MR KAINE (5.47):** I support the proposal that this Part of the Bill be omitted, and I do so because I think it is better to have no legislation than bad legislation. I note that when the first draft of this legislation was distributed in February of this year this Part was not in it. So it has been a very late addition to the Government's Bill. At the time they did this, they knew that Mrs Carnell's more comprehensive Bill had been on the table for some months, and I suspect that this was cobbled together fairly quickly to anticipate the debate and try to set aside the more comprehensive Bill the Leader of the Opposition had already tabled.

When the Bill was tabled and the Chief Minister was talking about this Part, she expressed the concern that if Part XII were simply excised from the Bill it would affect other parts of the Bill because, she said, the Bill was a comprehensive Bill that had been put together at the same time. We know that that latter statement is not true. It was not put together

at the same time; this was an afterthought. In briefings I have had on this issue over the last few weeks, I have ascertained that this Part could be excised without affecting any other part of the Bill whatsoever. There has been no identification of any other part of the Bill that would be affected if this were taken out.

That being the case, I would prefer to see this legislature enact comprehensive legislation that deals with all aspects of whistleblowing rather than only some of them. Ms Szuty suggests that we will get to more comprehensive legislation sooner rather than later. I do not know what she bases that on. I do not know how we will get to it, because this Assembly, not just the Government, rejected the select committee's report on this matter. That would suggest to me that a majority of people in this Assembly do not want more comprehensive legislation. When Ms Szuty says that we will get to it sooner rather than later, it is a nice thought, but I do not think it is very soundly based.

Coming back to my initial point, I would prefer to have no legislation than poor legislation. I think this Part of the Bill is poor because it was put together very quickly and thrust in at the last minute. I do not think it has been seriously thought through. It is restricted in its application. For those reasons, I support the approach which for the time being would remove Part XII from the Bill.

**MR MOORE (5.49):** Madam Speaker, what we have just heard from Mr Kaine, I think, is the most extraordinary piece of doublespeak we have heard in this Assembly, certainly today. I want to clarify that. It was Mr Kaine who took the very unusual step, when he brought down the report of the select committee, of moving that the report be adopted. I opposed that very unusual motion because, although I agreed with the report in principle, there were a couple of minor things that I had some difficulty with. Now we find Mr Kaine, who wanted the whole thing adopted, taking a totally different view from the committee report. This is one of the areas that I think the committee got right, and I am prepared to support the committee report. At the same time, the committee made it very clear - - -

**Mr Kaine:** You rejected it, mate.

**MR MOORE:** Madam Speaker, Mr Kaine interjects again and again that I rejected it. That is his doublespeak. I did not reject the report as a whole; I rejected the motion that it be adopted. It was a very unusual motion, you would agree. You know that that was a tactic that backfired on you and left you in the position where you are now voting against your own report. That is ironic.

Your report was right in this particular instance. For the time being, it is appropriate that we have some whistleblower legislation. I hope that it is as short a time as possible, and I put back to you that you are the one who can make it as quick as possible. I would like to see your report on this whistleblowing legislation from the Standing Committee on the Public Sector, which we established last week, back in this Assembly at our very next sitting. We can then move to adopt fuller whistleblowing legislation based fundamentally on the legislation Mrs Carnell tabled. That is consistent with the report.

I understand why the chair of that select committee is feeling very awkward, having been forced to vote against his own recommendations at this stage. Nevertheless, there is a way through and I hope, apart from this - - -

**Mr Kaine:** You are anticipating, Michael. I have not voted yet.

**MR MOORE:** Indeed. Madam Speaker, it is the case that Mr Kaine has not voted on this issue, and perhaps it will be worth calling the vote just to see how it goes. If the members of that standing committee have the will to do it, we can see appropriate stand-alone whistleblower legislation based on Mrs Carnell's Bill back in this Assembly very shortly.

**MS FOLLETT:** (Chief Minister and Treasurer) (5.53), by leave: I move together amendments Nos 78, 79 and 80, which read:

78. Page 176, line 27, clause 236 (definition of "government contractor"), after "Territory", insert "or a Territory authority".

79. Page 176, line 31, clause 236 (definition of "officer", paragraph (b)), omit "and".

80. Page 176, lines 32 and 33, clause 236 (definition of "officer", paragraph (c)), omit the paragraph, substitute the following paragraphs:

- "(c) a person employed by a Territory instrumentality or a statutory officer holder;
- (d) a person employed under the *Legislative Assembly (Members' Staff) Act 1989*; and
- (e) a person who has ceased to be a person referred to in paragraph (a), (b), (c) or (d)."

These amendments are required so that the definitions of "government contractor" and "officer" are lined up with the application of the Crimes (Offences Against the Government) Act 1989. They follow comments made by Mr Kaine in the select committee on the establishment of the new service. I commend the amendments to members.

I want to speak also against the proposal by Mrs Carnell to delete the whistleblower protection provisions from the Bill. The provisions which are there, as Mr Moore and Ms Szuty have said, follow the recommendations made by the Assembly's committee on the separate public service. I agree with Mr Moore that Mr Kaine has been quite disingenuous in his comments in relation to the recommendations of the

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Assembly committee. The fact is that the motion Mr Kaine moved required the Assembly to adopt the report as a whole. At no stage were the recommendations of that report put separately or seriatim, and at no stage did members of this Assembly have an opportunity to indicate their support or otherwise for the different recommendations.

I think it is quite untrue to say that the report has been rejected. Quite clearly, members support various parts of it and do not support other parts. One part of the report that is well supported is its handling of the whistleblower provisions. I am amazed to find at this late stage that the author of the report, Mr Kaine, now does not support those parts of the report. Indeed, I believe that the report's recommendation, which is to leave in place what is in the Bill while the Assembly's committee gets on with the job of attempting to draft something better, is a very sensible solution. I have confidence that a committee of this Assembly will be capable of performing that task and performing it in a timely fashion. I commend the Bill as it stands and I also commend these three amendments.

Amendments agreed to.

Clause, as amended, agreed to.

Clauses 237 to 240, by leave, taken together

**MS FOLLETT** (Chief Minister and Treasurer) (5.56), by leave: I move the following amendments together:

81. Page 177, line 14, subclause 237(1), omit "subsection (2)", substitute "subsections (1A) and (2)".

82. Page 177, line 23, after subclause 237(1), insert the following subclause:

"(1A) Subsection (1) does not extend to a disclosure that would, apart from subsection (1), constitute an offence against subsection 92(2) of the *Legal Aid Act 1977*."

83. Page 178, line 22, subclause 238(2), omit "subsection (3)", substitute "subsections (2A) and (3)".

84. Page 178, line 26, after subclause 238(2), insert the following subclause:

"(2A) Subsection (2) does not extend to a disclosure that would, apart from subsection (1), constitute an offence against subsection 92(2) of the *Legal Aid Act 1977*."

85. Page 180, line 2, after paragraph 239(c), insert the following paragraph:

"(ca) the disclosure would not, apart from this section, constitute an offence against subsection 92(2) of the *Legal Aid Act 1977*;"

The purposes of these amendments are various, none of them is major. Amendments Nos 81 and 82 relate to the disclosure of information to the Auditor-General or the Ombudsman. In order to correct an oversight, I am proposing that subclause 237(1) be amended by omitting "subsection (2)" and substituting the words, "subsections (1A) and (2)". Clause 237 is to be amended to overcome the effect of the provision resulting in a possible breach of client privilege in relation to matters before the ACT Legal Aid Office. Client privilege means that information provided to a legal representative by a client is confidential, and the amendment proposed has the effect of not extending the provision to information covered by the secrecy provisions of subsection 92(2) of the *Legal Aid Act 1977*.

Amendments Nos 83 and 84 concern whistleblowing in relation to disclosure of information to an authorised official. Following on from the amendment to the previous clause, I need to overcome the possibility of breaching client privilege in this clause as well. I propose omitting "subsection (3)" and substituting "subsections (2A) and (3)" and inserting a new subclause (2A) immediately following subclause (2), to have the effect of not extending the provision to information covered by the secrecy provisions of subsection 92(2) of the *Legal Aid Act 1977*.

In relation to my amendment No. 85, I am proposing to amend clause 239 by inserting new paragraph (ca) after paragraph (c), to provide that "the disclosure would not, apart from this section, constitute an offence against subsection 92(2) of the *Legal Aid Act 1977*".

Amendments agreed to.

Clauses, as amended, agreed to.

Clauses 244 and 251, by leave, taken together

**MS FOLLETT** (Chief Minister and Treasurer) (5.59), by leave: I move together amendments Nos 86, 87 and 88, which read:

86. Page 182, lines 22 to 24, paragraph 244(1)(f), omit all the words after "any", substitute "other remunerative employment".

87. Page 185, line 1, paragraph 251(2)(n), after "retirement", insert ", resignation".

88. Page 185, lines 30 and 31, subclause 251(3), omit "commencement day", substitute "day on which this section commences".

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These amendments are technical and cover a number of matters. First of all, in relation to second jobs, the amendment relates to the prohibition of an officer of the public service undertaking any remunerative employment aside from the officer's primary job in the public service, unless he or she has the approval of the head of his or her department. To clarify the intention, clause 244 needs to be amended at paragraph 244(1)(f) by taking out all the words after "any" and substituting the words "other remunerative employment". Management standards are the subject of amendments Nos 87 and 88, which relate to clause 251. To correct an oversight, paragraph 251(2)(n) needs to be amended by inserting "resignation" after "retirement". The reference to "commencement day" in subclause 251(3) is to be omitted, to make it clear that it is intended that commencement be on the day on which the section commences under the commencement provisions of section 2 of the Act.

Amendments agreed to.

**MS FOLLETT** (Chief Minister and Treasurer) (6.01), by leave: I move together the following amendments:

89. Page 185, line 32, after subclause 251(3), insert the following subclause:

"(3A) Management standards that provide for matters of the kind referred to in paragraph (2)(j) take effect subject to any direction in force under section 12 of the *Director of Public Prosecutions Act 1990*."

90. Page 185, lines 33 and 34, subclause 251(4), omit the subclause, substitute the following subclauses:

"(4) The management standards may, in relation to a matter, include special conditions that are applicable to officers who are returned soldiers or who are, or have been, on specified defence service, including conditions under which preference may be given to returned soldiers in relation to any proposed appointments or promotions.

"(5) In subsection (4) -

'returned soldier' means a discharged member of the Forces within the meaning of section 4 or section 139 of the *Re-establishment and Employment Act 1945* of the Commonwealth and any other person who, as a member of the Defence Force, rendered continuous full-time service outside Australia -

(a) as a member of a unit of the Defence Force that was allotted for duty within the meaning of subsection 5B(2) of the *Veterans' Entitlements Act 1986* of the Commonwealth; or

(b) as a person who was allotted for duty within the meaning of subsection 5B(2) of the *Veterans' Entitlements Act 1986* of the Commonwealth;

in an operational area described in item 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 or 14 in Schedule 2 to the *Veterans' Entitlements Act 1986* of the Commonwealth during the period specified in that item;

'specified defence service' has the same meaning as in subsection 70(12)."

Amendment No. 89 has arisen as a result of negotiations with the Director of Public Prosecutions. The purpose of the amendment is to provide that the management standards made with respect to matters in paragraph 251(2)(j) take effect subject to any direction issued by the DPP under section 12 of the DPP Act 1993. Amendment No. 90 proposes to omit subclause 251(4) and insert instead new subclauses 251(4) and (5). To ensure that the conditions for returned soldiers are the same as apply under the Commonwealth Public Service Act, a provision is to be included so that the public sector management standards may provide for the special conditions that are applicable to returned soldiers, including preference in relation to appointments or promotions. I commend those two amendments to the Assembly.

Amendments agreed to.

Clauses, as amended, agreed to.

Postponed clause 253

**MR MOORE** (6.03): I move:

Page 186, line 27, subclause (5), omit "not".

It is appropriate that management standards be able to be scrutinised by the Assembly. I would imagine that in the vast majority of cases they will not be scrutinised by the Assembly; but, if there is a change to those standards that is of concern to members of the public, they should have the opportunity of drawing that to the attention of members of the Assembly. It may well be that members of the Assembly wish to keep an eye on the management standards as part of this Bill. In that case, we ought to have the opportunity to use the Subordinate Laws Act either to disallow or to amend any section of the management standards; in other words, to use the Subordinate Laws Act in the way it ought to be used to keep an overview, to keep a watching brief, on what is happening within the Government Service and within things that we facilitate under such an Act.

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It is fairly common for us to have such issues dealt with as disallowable instruments and very unusual, in fact, these days to find in a Bill an exclusion from the Subordinate Laws Act. I think it is unacceptable, and that is why I have moved this amendment. I apologise to members that it has come at the last minute, after rereading the Bill. It came out of an issue Mr Humphries raised that was drawn to my attention - something I had missed earlier. I commend the amendment to members.

**MR LAMONT** (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (6.06): Madam Speaker, the Government will not be opposing the amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Schedules 1 to 4, by leave, taken together

**MS FOLLETT** (Chief Minister and Treasurer) (6.06), by leave: I move together the following amendments:

91. Page 191, lines 1 to 15, Schedule 2, omit the Schedule.

92. Page 192, line 14, Schedule 3 (proposed modifications of subsection 3(1) of the Merit Protection Act), after paragraph (a), insert the following paragraph:

"(ab) Omit 'not include the Australian Federal Police' from the definition of 'Commonwealth authority', substitute the following:

'not include -

(e) the Australian Federal Police; or

(f) an authority that is an enactment authority as defined by section 3 of the *A.C.T. Self-Government (Consequential Provisions) Act 1988* of the Commonwealth and incorporated or established for a public purpose".

93. Page 193, lines 32 and 33, Schedule 3 (proposed modification of section 4 of the Merit Protection Act), omit "and the Territory instrumentalities specified in Schedule 2 of the Public Sector Management Act".

94. Page 196, line 12, Schedule 3 (additional proposed modifications of the Merit Protection Act), after the proposed modification of subsection 25(2), insert the following:

"Section 27 -

Add at the end 'in its application to officers under section 15 of the *Public Sector Management (Consequential and Transitional Provisions) Act 1994* of the Australian Capital Territory'.

"Paragraph 28(1)(b) -

Omit 'Public Service Board', substitute 'Commissioner'.

"Paragraph 28(1)(c) -

Omit 'regulations' (twice occurring), substitute 'management standards'.

"Subsection 28(2) -

(a) Omit 'Public Service Board', substitute 'Commissioner'.

(b) After '*Public Service Act 1922*' insert 'in its application to officers under section 15 of the *Public Sector Management (Consequential and Transitional Provisions) Act 1994* of the Australian Capital Territory'.

"Section 31 (definition of 'application') -

Omit 'subsection 17(2) or 24(2)', substitute 'subsection 13B(1)'.

"Section 31 (definition of 'relevant Act') -

Omit '*Members of Parliament (Staff) Act 1984*', substitute '*Legislative Assembly (Members' Staff) Act 1989* of the Australian Capital Territory'.

"Section 32 -

Omit 'Parts III and IV', substitute 'Part IIIA'.

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"Paragraph 33(b) -

Omit 'Public Service Board', substitute 'Commissioner'.

"Paragraph 33(c) -

Omit 'regulations' (twice occurring), substitute 'management standards'."

95. Page 196, lines 13 to 16, Schedule 3 (proposed modification of paragraph 37(1)(b) of the Merit Protection Act), omit the proposed modification, substitute the following:

"Paragraph 37(1)(b) -

Omit 'and to the regulations made under those Acts', substitute ', the regulations made under those Acts and the management standards'."

96. Page 196, lines 17 and 18, Schedule 3 (proposed modification of subsection 37(2) of the Merit Protection Act), omit the proposed modification, substitute the following:

"Paragraphs 37(2)(a) and (c) -

Omit the paragraphs, substitute the following paragraphs:

'(a) in relation to a Promotion Appeal Committee, Disciplinary Appeal Committee or Redeployment and Retirement Appeal Committee - the Public Sector Management Act;

'(b) in relation to a Re-appointment Review Committee - the *Public Service Act 1922*; and

'(c) in relation to a Re-integration Assessment Committee - the *Legislative Assembly (Members' Staff) Act 1989* of the Australian Capital Territory.'."

97. Page 198, lines 5 to 11, Schedule 3 (proposed modification of subsection 54(1) of the Merit Protection Act), omit the proposed modification, substitute the following:

"Subsection 54(1) -

Omit 'such officer in the Department or authority as the Agency considers appropriate', substitute 'the Commissioner'."

98. Page 199, line 5, Schedule 3, omit "Executive.", substitute "Executive;".

99. Page 199, lines 22 to 25, Schedule 4, proposed modification of subsection 5(1) of the *Occupational Health and Safety Act 1989* (definition of "designated work group"), omit paragraphs (a) and (b), substitute the following:

"Omit the definition, substitute the following definition:

"designated work group" means -

(a) a group of employees established as a designated work group by an employer under subsection 37(4A); and

(b) such a group as varied by an employer under subsection 37(4B);

and, in relation to an employer, means such a group that consists entirely of employees of the employer;".

100. Page 208, line 13, Schedule 4, proposed section 60D, add the following subsection:

"(3) The fact that giving information or producing documents pursuant to a requirement under subsection (1) may tend to incriminate the person who is subject to such a requirement shall be taken to be a reasonable excuse on the part of that person for the purpose of subsection (2)."

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101. Page 209, line 31, Schedule 4, proposed section 60J, add the following subsection:

"(2) The fact that answering a question or producing a document pursuant to a requirement under paragraph (1)(b) or (c), as the case may be, may tend to incriminate the person who is subject to such a requirement shall be taken to be a reasonable excuse on the part of that person for the purpose of subsection (1)."

Amendment No. 91 is a result of a changed approach to the drafting of related provisions by the Commonwealth, so it is pretty much a technical matter. The majority of the amendments relate to the Scrutiny of Bills Committee's examination of the legislation. Amendments Nos 92, 93, 94, 95, 96, 97 and 98 are related to modifications to the Merit Protection (Australian Government Employees) Act, to ensure that the Commonwealth merit protection provisions apply to Territory employees as well.

Amendments agreed to.

Schedules, as amended, agreed to.

Postponed clauses 2, 4, 6, 7, 9 to 11, 14 to 25, 27, 29 to 31, 33 to 35, 37, 38, 40 to 43, 45, 47 to 49, 52, 53, 55, 56, 60 to 62, 66, 67, 69, 71, 73, 76 to 79, 82 to 84, 86 to 96, 99, 101 to 103, 105, 107, 109 to 114, 116, 118 to 132, 134 to 147, 149, 151 to 153, 157, 160 to 166, 168, 169, 171 to 180, 182 to 191, 193 to 233, 241 to 243, 245 to 250 and 252, by leave, taken together, and agreed to.

Title agreed to.

Bill, as amended, agreed to.

**PUBLIC SECTOR MANAGEMENT  
(CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 1994**

Debate resumed from 12 May 1994, on motion by Ms Follett:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

## Detail Stage

Bill, by leave, taken as a whole

**MS FOLLETT** (Chief Minister and Treasurer) (6.09), by leave: I move the following amendments together:

1. Page 2, line 33, subclause 4(1) (definition of "prescribed entity", paragraph (d)), omit the paragraph.
2. Page 3, line 3, subclause 4(1) (definition of "prescribed entity", paragraph (h)), omit the paragraph.
3. Page 9, line 10, proposed clause 17A, after clause 17, insert the following clause in Division 2 of Part II:

### Canberra Public Cemeteries Regulations

"17A. (1) On the commencement day, there shall be taken to have been created under section 55 of the Public Sector Act an office in the administrative unit allocated responsibility for administering the *Cemeteries Act 1933* whose duties include performing the functions of Secretary to The Trustees of the Canberra Public Cemeteries.

"(2) The person who immediately before the commencement day held an appointment as Secretary to The Trustees under the Canberra Public Cemeteries Regulations as in force immediately before that day shall, on and after that day, be taken to hold the office created under the Public Sector Act by virtue of subsection (1)."

4. Page 14, lines 30 to 32, Schedule 1 (Part 7), Amendments of *Audit Act 1989*, amendment of subsection 3(1) (definition of "administrative unit"), omit the amendment, substitute the following amendment:

"Subsection 3(1) (definition of 'administrative unit', paragraph (a)), omit the paragraph, substitute the following paragraph:

'(a) an administrative unit established under subsection 13(1) of the *Public Sector Management Act 1994*; or'."

5. Page 15, line 11, Schedule 1 (Part 7), Amendments of *Audit Act 1989*, proposed new section 15, add the following proposed new subsection:

"(3) The Auditor-General has all the powers of a Chief Executive in relation to the staff assisting him or her as if the staff were employed in an administrative unit under the control of the Auditor-General."

6. Page 18, line 10, Schedule 1 (Part 11), Amendments of *Canberra Institute of Technology Act 1987*, omit "Section 7C -", substitute "Section 9 -".

7. Page 18, line 14, Schedule 1 (Part 11), Amendments of *Canberra Institute of Technology Act 1987*, omit "Section 19 -", substitute "Section 49 -".

8. Page 18, line 17, Schedule 1 (Part 11), Amendments of *Canberra Institute of Technology Act 1987*, omit "19", substitute "49".

9. Page 18, line 21, Schedule 1 (Part 11), Amendments of *Canberra Institute of Technology Act 1987*, omit "Subsections 19A (6) and (7) -", substitute "Subsections 51 (6) and (7) -".

10. Page 21, lines 23 to 29 and page 22, lines 1 to 3, Schedule 1 (Part 20), Amendments of *Construction Industry Training Fund Act 1994*, omit the part.

11. Page 23, line 24, Schedule 1 (Part 27), Amendments of *Director of Public Prosecutions Act 1990*, add the following proposed new subsection:

"(3) The Director has all the powers of a Chief Executive in relation to the staff assisting him or her as if the staff were employed in an administrative unit under the control of the Director."

12. Page 24, lines 2 and 3, Schedule 1 (Part 27), Amendments of *Director of Public Prosecutions Act 1990*, omit "the Chief Executive", substitute "a Chief Executive".

13. Page 29, lines 14 to 16, Schedule 1 (Part 41), Amendments of *Freedom of Information Act 1989*, omit the amendment, substitute the following amendment:

"Subsections 35(3) and (5) -

Omit 'Head of Administration', substitute 'Chief Executive who has control of the administrative unit to which responsibility for the co-ordination of government administration is allocated under section 14 of the *Public Sector Management Act 1994*'."

14. Page 32, lines 19 and 20, Schedule 1 (Part 49), Amendments of *Interpretation Act 1967*, proposed new definition of "administrative unit", omit the definition, substitute the following proposed new definition:

"'administrative unit' means an administrative unit for the time being established under subsection 13(1) of the *Public Sector Management Act 1994*;"

15. Page 33, lines 8 and 9, Schedule 1 (Part 49), Amendments of *Interpretation Act 1967*, omit the lines, substitute the following lines:

"New sections 30AA and 30AB -

After section 30, insert the following sections:"

16. Page 33, line 33, Schedule 1 (Part 49), Amendments of *Interpretation Act 1967*, after proposed new section 30AA, insert the following proposed new section:

"Delegation includes sub-delegation

"30AB. In sections 29A, 29B, 30 and 30AA, references to a power to delegate, a delegate and a delegation shall be read as including references to a power to sub-delegate, a sub-delegate and a sub-delegation, respectively."

17. Page 36, lines 1 to 17, Schedule 1 (Part 53), omit the Part.

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18. Page 37, line 2, Schedule 1 (Part 55), Amendments of *Legislative Assembly (Members' Staff) Act 1989*, add the following amendment:

"New Part IIIA -

After Part III, insert the following Part:

**'PART IIIA - OFFICERS AND EMPLOYEES OF THE GOVERNMENT SERVICE  
EMPLOYED BY ASSEMBLY MEMBERS**

**Interpretation**

'13A. In this Part, unless the contrary intention appears -

"Commissioner" means the Commissioner for Public Administration appointed under subsection 18(1) of the *Public Sector Management Act 1994*;

"employee" means a person who is engaged as an employee in the Government Service;

"Merit Protection Agency" means the Merit Protection and Review Agency established by the *Merit Protection (Australian Government Employees) Act 1984* of the Commonwealth;

"officer" means an officer of the Government Service.

**Rights of officers**

'13(B). (1) An officer employed by a member of the Assembly may apply in writing to the Merit Protection Agency -

(a) before the termination of the employment; or

(b) before the end of the period of 30 days, or such further period as the Merit Protection Agency allows, after the termination of the employment;

for the making of a determination under this section.

'(2) The Merit Protection Agency shall refer an application to a Re-integration Assessment Committee constituted under the *Merit Protection (Australian Government Employees) Act 1984* of the Commonwealth.

'(3) The Committee shall enquire into the application and, having regard to -

(a) the office in the Government Service or the Australian Public Service held by the officer immediately before being employed under this Act;

(b) the duration of that employment;

(c) the nature of the duties performed by the officer in that employment; and

(d) any other matter that in the opinion of the Committee is relevant;

shall determine -

(e) the classification (being a classification that is the same as, or higher than, the classification of the officer as an unattached officer at the time of the determination) that the officer is to have as an unattached officer in the Government Service; and

(f) the rate of salary at which the officer is to be paid, unless there is only 1 rate of salary applicable in respect of that classification.

'(4) A determination in relation to an officer shall be in writing and copies of the determination shall be given by the Committee to the Commissioner and the officer.

'(5) A determination has effect, or is to be taken to have had effect, upon the termination of the employment of the officer to whom it relates.

## **Rights of employees**

'13C. (1) Subject to subsection (2), for the purposes of the *Public Sector Management Act 1994*, an employee who is employed by a member of the Assembly is to be taken to be on leave without pay while the employment continues but the service of the employee under that employment shall be taken into account as if it were service as an employee.

'(2) An employee -

(a) who was selected for employment under the *Public Sector Management Act 1994*; or

(b) whose employment under that Act was authorised;

on the condition that the employment -

(c) should not continue after the end of a specified period; or

(d) should not continue after the completion of specified work;

is to be taken to have ceased to be an employee at the end of that period or the completion of the work'."

19. Page 48, line 30, Schedule 2, after Part 1, insert the following Part:

"PART 1A

### **Canberra Public Cemeteries Regulations**

#### **Subregulation 2(1) (definition of 'the Secretary') -**

Omit the definition.

#### **Subregulation 2(1) -**

Insert the following definition:

"'Secretary' means the public servant for the time being performing the functions of Secretary to The Trustees of the Canberra Public Cemeteries;".

**Subregulation 5(1) -**

Omit the subregulation, substitute the following subregulations:

'(1) There shall be a Secretary to The Trustees of the Canberra Public Cemeteries.

'(1A) The Chief Executive shall create and maintain an office in the Government Service whose duties include performing the functions of the Secretary to The Trustees of the Canberra Public Cemeteries.

'(1B) The Secretary shall be the public servant for the time being performing the duties of the Government Service office referred to in subregulation (1A).!'.

20. Page 49, lines 15 and 16, Schedule 2 (Part 2), Amendments of Finance Regulations, omit the amendment, substitute the following amendment:

**"Subregulation 24(1) -**

Omit 'Public Service', substitute 'Government Service'.

21. Page 50, line 10, Schedule 2 (Part 2), Amendments of Finance Regulations, further amendments (group No. 1), omit "Regulations 3 and 8", substitute "Regulations 3, 8 and 14".

22. Page 50, line 17, Schedule 2 (Part 2), Amendments of Finance Regulations, further amendments (group No. 1), before "regulation 79", insert "paragraph 77(18)(c),".

23. Page 50, line 20, Schedule 2 (Part 2), Amendments of Finance Regulations, further amendments (group No. 2), omit "Regulation 14, subregulation", substitute "Subregulation".

24. Page 50, line 24, Schedule 2 (Part 2), Amendments of Finance Regulations, further amendments (group No. 2), omit "and 64, subregulation 77(18), regulation 80", substitute ", 64 and 80".

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The amendments cover a variety of issues. They are consequential upon amendments that have been made to the Public Sector Management Bill.

Amendments agreed to.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

#### **ADJOURNMENT**

**MADAM SPEAKER:** Pursuant to the resolution of the Assembly of 16 June 1994, I put the question:

That the Assembly do now adjourn.

Question resolved in the affirmative.

**Assembly adjourned at 6.09 pm until Tuesday, 23 August 1994, at 2.30 pm**

**ANSWERS TO QUESTIONS  
MINISTER FOR HOUSING AND COMMUNITY SERVICES  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO 1265**

**Housing Trust - Tenancy Delays**

MR CORNWELL - Asked the Minister -for Housing and Community Services -

- (1) What is the average period of delay between an ACT Housing Trust property being vacated and retenanted.
- (2) Are there any especial delays in housing Rent Relief tenants in Trust properties; and if so, what are the reasons.
- (3) Are there any especial delays in housing Rent Relief single mothers in Trust properties; and if so, what are the reasons.

MR LAMONT - The answer to the Member's question is as follows -

- (1) 39.48 days.
- (2) & (3) No, all applicants are subject to the same process.

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**MINISTER FOR HOUSING AND COMMUNITY SERVICES  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO 1281  
Housing Trust - Rent Arrears**

MR CORNWELL - Asked the Minister for Housing and Community Services - In relation to a reply to a question without notice asked on 21 April 1994 that the value of current arrears as a percentage of rent receivable had fallen from 3% to 2.29/6 between June 1993 and March 1994

- (1) What do these percentages represent in dollar values.
- (2) What are the comparable dollar values in vacated arrears between these dates.

MR LAMONT - The answer to the Member's question is as follows:

(1) & (2)	31 March 1994		
	Current Arrears	\$ 2,043,580	2.15%
	Vacated Arrears	3,246,338	
	Rent Receivable	95,079,530	

June 1993

	Current Arrears	\$ 2,722,415	
	Vacated Arrears	2,847,018	3.02%
	Rent Receivable	90,257,244	

The dollar value of arrears can vary considerably within a fortnightly rent cycle. This is caused by the linkage between the payment of Department of Social Security (DSS) benefits and consequent payment of rent and the day on which the ACT Housing Trust carries out its debt raising. Consequently percentages also vary.

**MINISTER FOR URBAN SERVICES  
LEGISLATIVE ASSEMBLY QUESTION .  
QUESTION NO. 1286  
Belconnen Trash and Treasure Market**

Ms Szuty -asked the Minister for Urban Services:

In relation to the operation of the Rotary sponsored Trash and Treasure Market adjacent to the Jamison Shopping Centre - . . . .

(1) . . Does the Government intend to maintain its lease on all existing car parking spaces adjacent to the Jamison Shopping Centre which would enable the current licensee of the Jamison Trash and Treasure Market to continue operations in the future; if so, for how long is the Government prepared to continue the lease. .

Is the Government prepared to sign a five year leasing agreement as requested by Rotary over the market's current location; if not, why not

(3) Is the Government prepared to arrange for the dedication of the existing site for the market's use each Sunday; if not, why not.

Is the Minister aware of the results of the Jamison Centre Interview Survey, dated 6 -March. 1.994, and responded to by 237 people.;

Does the Minister agree that as 83% of the responded were attracted to the area by the Trash and Treasure Market and 46% of these respondents also purchased at Jamison Centre shops that the continuation of the markets is desirable, both-as a community activity and as a'

useful support to retail activity in the Centre. .

(6) . Is the Government prepared to excise a portion of the car park available adjacent to the Jamison Shopping Centre for the purpose of the conduct of a trash and treasure market; if not, why not . . : \_ , . . . : , . . . : .

Mr Lamont - the answer to the Member's question is as follows: . . - . .

(1) Tire existing car parking space -adjacent to the Jamison Shopping Centre .is unleased Government land. There are no plans to change the current use of the space. .~ ;

(2) The !Government is not prepared to sign, a five year leasing agreement as requested by Rotary over the market's current location as such a use would be inconsistent with the land use specified in the Territory Plan..

(3) The current licence agreement between the Rotary Club of Canberra Belconnen god the Department of Urban Services dedicates the use of the existing site for the market each r Sunday

(4) - ~ Yes.-.

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Continuation of the market is desirable from the community benefits point of view and as indicated by the interview survey, the number of market patrons who also purchase goods at the-Jamison shopping Centre. . .

Excising of a portion of the car park available adjacent to the Jamison Shopping Centre for . . the purpose of the conduct of a trash and treasure market can be and is currently accommodated as a "temporary use" in accordance with the Territory Plan through the issue of a licence agreement . , . . .

**MINISTER FOR HEALTH  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO. 1299**

**Community Health Centres**

Mrs Carnell - asked the Minister for Health ::

- (1) How many salaried doctors are employed by the Department of Health in Community Health Centres.
- (2) How many are employed at each Centre.
- (3) How much money is rebated from the Health Insurance Commission (Medicare) to the Department of Health for services performed by salaried officers.
- (4) How much other income was derived by the Department of Health from other non-ACT Government sources.
- (5) What is the cost to the Department of Health in terms of salary/wage and superannuation costs of employing doctors in centres.
- (6) What is the ultimate cost paid by the Department of Health for employing these officers after any rebate is received from the Health Insurance Commission or other sources is taken into account.
- (7) How many patients are seen by salaried doctors on average at each Centre.
- (8) What is the average cost to the Department of Health per patient at Centres in the following areas (a) patients seen by salaried officers; (b) patients seen by a nurse practitioner; (c) patients seen by a speech therapist; (d) patients seen by a physiotherapist; and (e) patients seen by other health professionals.

Mr Connolly - the answer to the Member's question is:

- (1) 12 full time 5 part time salaried doctors are currently employed in Community Health Centres. Of these, three (1 full time and 2 part time), are on long term leave.

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(2) They are distributed in the following way:

Belconnen Health Centre

City Health Centre

Melba Health Centre

Narrabundah Health Centre

Phillip Health Centre

Tuggeranong Health Centre

Women's Health Service

(Excludes the doctors on long term leave).

3 FIE

2 FIE

2 FTE

2 FTE

1.6 FTE

2 FTE (0.8 non-clinical senior role)

0.8 FTE

(3) In the period 1 July 1993 to 31 May 1994, \$1,337,835 was earned by salaried doctors. This income includes Health Insurance Commission, Veteran's Affairs, Workers Compensation and Third Party payments as well as direct client payment for non rebatable services. A breakdown of the components is not readily available. However, the bulk of this income is rebated from the Health Insurance Commission.

(4) See (3).

(5) Salary and superannuation costs for doctors employed over the same period were \$1,089,756.

(6) Each doctor on average generated a surplus of \$16,321 in relation to income against salary and superannuation costs for the 11 month period. However, this is not the ultimate cost of employing these doctors as there are additional expenses related to providing the service such as facilities, support staff and clinical supplies.

(7) The average number of clients seen by doctors at each health centre (based on statistics for the period 1 July 1993 to 31 May 1994) is as follows:

Belconnen Health Centre

City Health Centre

Melba Health Centre

Narrabundah Health Centre

Phillip Health Centre

Tuggeranong Health Centre

Women's Health Service

654 per month 589 per month 1299 per month 950 per month 663 per month 541 per month 159 per month

It should be noted that these are individual **client** contacts and do not include other duties performed by the doctors. During this period the number and distribution of doctors to individual centres has changed.

(8) The average cost to the Department of Health for clients seen by:

(a) salaried doctor, a surplus of \$4.60 per individual occasion of service (b) nurse practitioner, a cost of \$13 per individual occasion of service (c) speech pathologist, a cost of \$39 per individual occasion of service (d) physiotherapist, a cost 'of \$20 per individual occasion of service (e) other health professionals, a cost of \$51 per individual occasion of service

.in the 11 month period 1 July 1994 to 31 May 1994.

Again these figures do not take into account group work, community development or health promotion activities undertaken by these staff. Group work is a substantial component of the work of speech pathologists and the 'other health professional' group.

These costs per individual occasion of service relate to salary related expenditure and do not include administrative, facility and supply costs.

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**MINISTER FOR HEALTH  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO 1300  
Mental Health Services - Waiting Lists**

**Mrs Carnell - asked the Minister for Health:**

(1) How many people are on waiting lists for the following mental health facilities or services (a) Community Mental Health Services; (b) Watson Hostel; (c) Hennessy House; (d) Woden Valley Psychiatric Unit; (e) 24 hour Crisis Unit; and (f) any other health or medical facility in the ACT.

(2) How many at (1) have being waiting for (a) less than three months; (b) three to six months; (c) six to twelve months; and (d) more than twelve months.

(3) Have any people been referred to or admitted to facilities interstate by ACT authorities in the past twelve months for any psychiatric condition or treatment.

Mr Connolly - the answer to the Member's question is:

(1) The number of people on waiting lists for mental *health services* in (a) Community Mental Health Services averages 18; (b) Watson Hostel is 12; (c) Hennessy House is 5; (d) Woden Valley Psychiatric Unit is 0; and (e) Psychiatric Rehabilitation Services is 10.

In Community Mental Health Services, clients are assessed when first contact is made. While there is no waiting time for cases that are assessed as urgent or in crisis, clients who make specific requests may wait for two to three weeks for appointments.

(2) Based on the figures supplied in (1), a total of 37 people have been on the waiting list for less than three months; 6 people for three to six months; and 2 people for six to twelve months.

(3) In the past 13 months a total of 16 people have been referred to facilities interstate by ACT authorities which includes the courts acting under the Inebriates Act.

**MINISTER FOR HEALTH  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO. 1301**

**Hospitals - Emergency Departments**

Mrs Carnell - asked the Minister for Health:

What have been the number of occasions of service in the Accident and Emergency Departments of the Woden Valley Hospital and Calvary Hospital by clinical category and of these how many were admitted in each of the following periods (a) March Quarter 1992; (b) June Quarter 1992; (c) September Quarter 1992; (d) December Quarter 1992; (e) March Quarter 1993; (f) June Quarter 1993; (g) September Quarter 1993; (h) December Quarter 1993; (i) March Quarter 1994.

Mr Connolly - the answer to the Member's question is:

A National Triage Scale which directly relates triage code with severity of mess was adopted by the Australian Council on Healthcare Standards early in 1994.-The national classification will be adopted in the Emergency Department at Woden Valley Hospital in the near future.

The National Triage Scale has five categories ranging from category 1 (resuscitation), needing immediate treatment, to category 5 (non urgent) which should be seen within two hours.

At present at Woden Valley Hospital patients are similarly triaged according to the time period within which they should receive treatment. These timeframes are roughly comparable to the new National Triage Scale categories.

Statistics available are as follows:

March Quarter 1992

Occasions of Service 11,796  
==frame for Treatment

Not Specified: 6,666

Immediate 94

Within 15 Minutes 714

Within 30 Minutes 2,106

Non Urgent, Within 60 Minutes 2,216

Admissions 331

It was during this quarter that computerised statistical records began being collected. The figures for this quarter are therefore incomplete

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**MINISTER FOR HEALTH  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO.1302**

**Health Portfolio - Public Relations Expenditure**

Mrs Carnell - asked the Minister for Health: In relation to public relations expenditure.

- (1) How many brochures have been produced to advertise the Art Works Program at the Woden Valley Hospital? -
- (2) What was the cost of the brochures, including artwork, production, distribution costs, etc?
- (3) Who authorised the production?
- (4) When was it authorised?
- (5) Was the Minister aware of its production prior to distribution?
- (6) Why was this activity undertaken when the Department of Health has record waiting lists, and experiencing budgetary problems?
- (7) Are further promotional activities of this nature, involving expensive glossy brochures, or other promotional activity to be undertaken in the future in relation to the Hospital Redevelopment or other Department of Health activity?

Mr Connolly - the answer to the Member's question is:

- (1) One brochure on the artwork program has been produced.
- (2) 2000 copies were produced. The cost was \$1400.00 for production and \$1420.00 for printing. There were no specific distribution costs - the internal Department distribution system was used; copies were provided to the Arts Council; and to the Project Office; and were handed out at the opening.
- (3) The General Manager Corporate Division in consultation with the Arts Council and relevant Department staff.
- (4) Prior to October 1993. The October 1993 minutes of the Public Relations Planning Group monthly meeting (which coordinated the brochure's production) contains the first formal reference to the brochure. The minutes indicate that the brochure had been discussed with the Arts Council prior to October 1993.

(5) My understanding is that the Minister (then Mr Berry) was aware of the brochure's production. He received copies prior to distribution.

(6) The artwork brochure was timed to coincide with the opening of the Entry Precinct Building and Forecourt at Woden Valley Hospital. It was widely distributed at the opening. A brochure was requested by the Arts Council and was assessed as a necessary information vehicle to advise the community about

. the new artworks, the new facility that houses them, and the fact that the artwork program involved some 1000 community members who worked with the artists.

The Department has an obligation to members of the community to keep them informed of and up-to-date with major developments in the ACT Public Hospitals Redevelopment Project that will directly affect them. The community's involvement in the redevelopment of Woden Valley Hospital is of paramount importance to the creation of a sense of ownership by the community of the Hospital. The distribution of the brochure to relevant target audiences aided in the development of this kind of culture and assisted in the very important process of information dissemination. ,

(7) The Department is not planning production of any other glossy brochures in relation to the Redevelopment Project. (The Project Office has proposed production of a general Redevelopment brochure encompassing the whole Redevelopment project. If this proceeds, it will be funded directly from the approved and allocated Redevelopment budget) There are a few more sections of the Redevelopment Project to be opened over the next two-and-a-half years, e.g, Coronary Care, Level 2, and the remaining Levels of Packages 10A and 10B (Tower Block), with involvement by myself and relevant Department staff. These will be managed by Ministerial, Department and Project Office staff only.

22 June 1994

**MINISTER FOR URBAN SERVICES  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO 1303  
ACTION - Advertising Tenders**

Mrs Carnell - asked the Minister for Urban Services: In relation to the tender (request for tender No T93376) for advertising on the ACTION Bus Fleet

- (1) When was the tender called.
- (2) When did tenders close.
- (3) What were the number of tenders and how many were from (a) the ACT; (b) the Canberra region; and (c) outside this area.
- (4) What were the names of the members of the Tender Board.
- (5) What were the criteria used to determine the successful tender.
- (6) Who was the successful tenderer.
- (7) Was the successful tenderer the cheapest tenderer, if not, on what basis was the successful tender chosen.
- (8) Have both successful and unsuccessful tenderers been advised of the results (a) when were they advised; (b) how were they advised; and (c) was any tenderer told prior to others of the results of the tender.

Mr Lamont - the answer to the Member's question is as follows:

- (1) Expressions of interest were called and closed in November 1993. Ten firms responded with five firms shortlisted to tender under Tender No T93376. This tender was called on 24 January 1994.
- (2) 4 February 1994.
- (3) Five tenders were received (a) three tenders were from the ACT: (b) the same **three tenders came from** the Canberra region; and (c) two tenders were received from outside the Canberra region.
- (4) The ACT Government does not have a tender board however the tender was evaluated by a committee comprising representatives of ACTION, Public Works and Services and a representative of ACTION's union.

(5) The criteria used to determine the successful tender was to obtain best value for money for the Territory with the following factors taken into consideration;

- experience and knowledge,
- ability and current volume of work, technical, management, physical and financial resources, reputation within the industry, record of performance, ' financial capacity, industrial relations and safety performance, price compared with estimated costs, and
- compliance to specification

(6) Bus Advertising Pty Ltd.

The successful tenderer was chosen on the basis stated in (5) above, while providing the greatest revenue to the ACT over the three year life of the contract.

(8) Yes (a) the successful tenderer was advised in writing on Thursday 12 May 1994 and they confirmed the Tender acceptance in writing on Friday 13 May 1994. The unsuccessful tenderers were advised on or about Monday 16 May 1994; (b) by letter, and (c) See 8(a).

22 June 1994

**MINISTER FOR THE ENVIRONMENT LAND AND PLANNING**

**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION No. 1304  
Contaminated Sites Register**

Mr Moore - asked the Minister for the-Environment, Land and Planning

- (1). Has a register of toxic sites in the ACT (including contaminated sites from sheep dip, arsenic and dieldrin) been compiled. -
- (2) If so, what procedures have-been adopted to treat these sites: '

Mr Wood - the answer to the Member's question is. as follows:

(1) A list of former sheep dip sites is being developed in consultation with the ACT community. There is also information available of former landfills announced by the then Minister for Urban Services in 1992 and information on other sites such as the site of the former service-station in Bunda Street, Civic. This information will form the basis of a comprehensive database of information about contaminated sites in the ACT . . . . , ' .

(2) where preliminary testing of a site indicates a level of contamination which requires further investigation., the site will be further assessed and managed in-. with the joint Australian and New Zealand Environment and Conservation Council and National Health and Medical Research Council Guidelines for the Assessment and Management of Contaminated Sites.

**MINISTER FOR URBAN SERVICES  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION 1306  
Griffith Primary School Site - Refurbishment**

Mr Westende - asked the Minister for Urban Services:

- (1) What are the details of the budgeted costs for the refurbishment of the Griffith Primacy School to accommodate the relocation of Kingston Library.
- (2) When will the relocation take place.
- (3) What will become of the present Kingston Library site.

Mr Lamont - the answer to the Member's question is as follows:

- (1) The total budgeted cost for the refurbishment of the Griffith Primary School for the ACT Library Service is \$1.96 million. This amount is spread over two financial years and includes the refurbishment of both the single and two storey wings to provide accommodation for a Public Library, Home Library Service, and Braille Collection, as well as facilities for the selection and cataloguing of material for all Branch Libraries of the ACT Library Service. The Administration and Systems area of the ACT Library Service is also to be located within the refurbished building. A facility new to the area will be the provision of a community room to be used by residents of the area.
- (2) The handover of the single storey wing which is to be used for the Griffith Library is scheduled for Monday 25 July 1994. It is anticipated that the Library will open to the public on Monday 22 August 1994. The handover of the two storey wing is scheduled for November 1994.
- (3) The present building at Kingston houses the Technical Services area of the ACT Library Service in addition to the Public Library. This function will transfer to Griffith following the handover of the two storey wing at the end of the year. The Government has a lease on the Kingston building until 31 D1994 at which time the building will be handed back to the owner.

**MINISTER FOR HOUSING AND COMMUNITY SERVICES**

**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION NO 1308**  
**Child-Care Centres - Immunisation Policy**

MR HUMPHRIES: Asked the Minister for Housing and Community Services

1. Does the Government have a policy with respect to the immunisation of children admitted to Government sponsored or subsidised childcare places. If so, what is the policy.
2. Is it compulsory for children admitted to such places to be immunised.
3. What procedures are followed in Government sponsored or subsidised childcare centres in the event of an outbreak of a contagious childhood illness, eg. measles.

MR LAMONT: The answer to the Member's question is as follows

1. The Government's policy regarding immunisation for children attending Government sponsored or subsidised childcare places is the same as for those attending other childcare services, preschools and schools in the ACT.

Under the ACT *Public Health (Infectious and Notifiable Diseases) Regulations July 1993*, it is mandatory to establish the immunisation status of children being enrolled in childcare, preschools and school for the first time. Parents/guardians are required to show their child's immunisation record, on the approved form, at the time of enrolment.

2. The Government does not have a policy of compulsory immunisation for children attending child care centres. However, some child care services have chosen to maintain a policy of requiring immunisation according to the ACT Health requirements unless there is a medical reason put in writing by a registered medical practitioner which prevents or delays immunisation. This was the requirement prior to the ACT *Public Health (Infectious and Notifiable Diseases) Regulations July 1993*.
3. The procedures to be followed in the event of an outbreak of a contagious vaccine-preventable childhood illness in a child care centre are as follows:
  - The Director of the child care centre is to inform the parents/guardians, of unimmunised children and the Medical Officer of Health as soon as is possible.
  - The Medical Officer of Health may direct that the child be excluded from the child care centre for the duration of the outbreak.

**MINISTER FOR HOUSING AND COMMUNITY  
SERVICES  
LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION NO 1309  
Housing Trust - Flat Complexes**

MR CORNWELL: Asked the Minister for Housing and Community Services - In relation to the measures being taken to improve security and lifestyle at the inner city flat complexes

- (1) Is it true that the ACT Housing Trust is considering building flats for persons to be known as "guardians" within those complexes.
- (2) If so, are those flats to be built on the boiler structures and is the cost of \$50,000 for each one being considered.
- (3) In relation to "guardians" (a) what will be their duties; (b) what hours will they work; (c) what will be the terms of their employment; and (d) by what criteria will *they be* selected.

MR LAMONT: The answer to the Member's question is as follows

- (1) No. However, the Housing Trust currently has two of its permanent staff working on a part time basis on-site at the Flats. An Area Manager and the Project Manager currently share a small room on the ground floor, Block B, Currong Flats.

In addition, it will shortly be necessary to provide a working base for the Community Guardian Officers, a Commonwealth funded support worker for the aged and a Community Development Officer. The joint Tenant/ACT Housing Trust Steering Committee asked the Trust to provide accommodation for these officers from funds other than those earmarked for improving the safety, security and quality of life of the residents. The Trust has agreed to this.

- (2) The staff room to be provided will be built above one of the old boiler rooms. The original estimate was \$50,000. The Trust is presently waiting for more accurate costs.

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(3 a) The overall aim of the Community Guardian Service will be to develop a friendly, safe and secure environment within the flats complexes. The duties will include, regular foot patrols of the area, response to calls for assistance or incidents of anti-social behaviour and regular maintenance 'inspections to common areas of the flats.

(b) They will work from Rpm - Sam Monday to Friday and Rpm to Gam on weekends and public holidays.

(c) The Community Guardian Service will be selected by tender, initially for a period of three months on a fixed price contract. Employment conditions will be negotiated as part of the tender process.

(d) The successful tender will be required to meet the following criteria:

- The integrity of the service offered, particularly as to confidentiality, sensitivity and the overall suitability of the agencies contact procedures.
- Value for money.
- The quality of the service offered.
- System standards and procedures including communication at formal and informal levels.
  
- The comprehensiveness and/or completeness of the service offered.
- Flexibility to accommodate minor procedural amendments.
- Quality and clarity of the offer and overall compliance with the evaluation criteria.
- The ability of the agency to provide a list of suitable officers to be selected individually by the Housing Trust.
  
- The ability of the agency to provide adequate relief during staff absences.
- The ability of .the agency to provide adequate conditions of service for its employees.

**MINISTER FOR HOUSING AND COMMUNITY SERVICES  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO 1310  
Housing Trust - New Properties**

Mr CORNWELL: Asked the Minister for Housing and Community Services -

- (1) Why were there no public sector building approvals in the March 1994 quarter (Source: ABM Catalogue 8731.0).
- (2) What funding was provided in the 1993-94 Budget for new ACT Housing Trust properties and how many properties does this represent.
- (3) How many (a) 2 bedroom houses; (b) 3 bedroom houses; (c) 4 bedroom houses; (d) APU (e) flats; and (f) townhouses did the Trust propose to construct with the allocation in (2).
- (4) How many of the properties in (3) have been built or commenced to date.

Mr LAMONT: The answer to the Member's question is as follows -

- (1) This was due mainly to delays in obtaining lease variation and planning approvals on the Trust's redevelopment sites.
- (2) \$27.54m which represented 131 commencements and 174 completions.
- (3) (a) 23 commencements and 13 completions (includes townhouses).  
(b) 24 commencements and 29 completions (includes townhouses).  
(c) 8 commencements and 8 completions (includes townhouses).  
(d) 20 commencements and 30 completions.  
(e) 52 commencements and 93 completions.
- (f) 37 commencements and 24 completions. These figures are also included in (a), (b) and (c). The definition of townhouses is that of a group of houses on a medium density block.

The equivalent figures for 5 bedroom houses, not included separately above, are 4 commencements and 1 completion.

- (4) As at 3016J94, 120 commencements and 145 completions.  
(a) 15 commencements and 9 completions (includes townhouses).

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(b) 28 commencements and 36 completions (includes townhouses).

(c) 5 commencements and 7 completions (includes townhouses).

(d) 16 commencements and 18 completions.

(e) 52 commencements and 74 completions.

(f) 15 commencements and 24 completions. These figures are also included in (a), (b) and (c). The definition of townhouses is that of a group of houses on a medium density block.

The equivalent figures for 5 bedroom houses, not included separately above, are 4 commencements and 1 completion.

**MINISTER FOR HOUSING AND COMMUNITY SERVICES  
ACT LEGISLATIVE ASSEMBLY QUESTION  
QUESTION ON NOTICE NO. 1311**

**Housing Trust - Debt Recovery**

MR CORNWELL: Asked the Minister for Housing and Community Services - Further to your predecessor's undertaking of 31 December 1993 in relation to debt collection service for outstanding ACT Housing Trust rent defaulters that " I am prepared to provide a progress report on recovery action once *the new* arrangements have become properly established" (Answer to Question on Notice No. 1060) -

What has been the success rate, in financial terms, from the commencement date of debt recovery action on-6- December 1993 to date.

How many rent defaulters does this represent.

What percentage of (a) outstanding debts and (b) rent defaulters does the success rate in (1) represent.

What has been *the total* cost to the ACT of the rent collection service in that period.

MR LAMONT: The answer to the Member's question is as follows -  
Debts recovered from 6 December 1993 to 26 June 1994 amounted to \$30,178.00

129

- (a) 1.0%
- (b) 5.0%
- (4) \$3,668.00

2451

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**MINISTER FOR EDUCATION AND TRAINING**

**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION NO 1312**

**Government Schools -  
Programmable Thermostats**

**MR CORNWELL** - asked the Minister for Education and Training on notice on 14 June 1994:

- (1) Is it a fact that T775 Programmable Thermostats are being removed from ACT Government schools and if so, why.
- (2) How many such thermostats were installed-and in how many schools.
- (3) When were the thermostats installed.
- (4) What was the cost of installation.
- (5) What was the expected longevity of the thermostats.

**MR WOOD** - the answer to Mr Cornwell's question is:

- (1) Six Honeywell T775 series controllers are currently being replaced at Hawker Primary School due to varying degrees of progressive failure over the last three months.
- (2) T775 series controllers were installed in approximately one third of ACT Government schools. Exact numbers are not readily available.
- (3) Installation of these controllers in schools was undertaken over the past 4 years as part of the ACT Government Energy Management Program.
- (4) The average cost of installation of each controller was \$1,100.
- (5) Depending on individual site conditions and the purpose the controller is used for, the expected life cycle is seven years. Failure rates have been low at under 5%.

**ATTORNEY-GENERAL**  
**ACT LEGISLATIVE ASSEMBLY QUESTION**  
**QUESTION NO 1313**  
**Police Force - Aboriginal Crime**

MR CORNWELL: To ask the Attorney-General -

- (1) Do the police have instructions to deal differently with crimes allegedly committed by or complaints made against Aboriginals than would be the case with other citizens.
- (2) If so, how does the approach differ, eg conflict resolution, involvement of Aboriginal elders etc.
- (3) What action is taken if the different approach does not work.
- (4) Why is a different approach adopted for Aboriginals compared with other citizens.           - .

Is there evidence that this different approach causes resentment in the nonAboriginal community.

- (6) Does this different approach breach the Discrimination Act and if not, why not.

MR CONNOLLY: The answer to Mr Cornwell's question is as follows:

- (1) The short answer is yes. However, while all citizens are equal before the law, the Australian Federal Police are conscious of the need to ensure that Aboriginal persons are treated fairly. The record of relations between Canberra police and the Aboriginal community is a good one, but as Royal Commissions and other inquiries in other parts of Australia have shown, this is not the case throughout Australia. Accordingly, instructions have been developed to cover police dealings with Aboriginal persons.
- (2) Police are required by the provisions of Section 23C of the Crimes Act 1914 (the Act) and AFB General Instruction 1, Aboriginals and Torres Strait Islanders, to adopt certain procedures when dealing with Aboriginal persons. For example, under Section 23H of the Act an "interview friend" must be present during the questioning of an Aboriginal person in relation to the commission of an offence. Section 23C(4)(a) of the Act restricts the length of police interviews of Aboriginal persons after arrest to two hours unless the period is extended under Section 23D.

Police attempt to resolve all conflicts with members of the community in the same manner irrespective of their ethnic background. In instances where Aboriginal persons are involved, it is possible that Aboriginal elders may be approached in an attempt to find a resolution to a problem.

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On 1 January 1994, the AFB ACT Region introduced Diversionary Conferencing which is currently aimed at, but not restricted to, young offenders and is designed to ensure that the offender does not reopened and that the needs of the victim are taken into account. Offenders considered suitable for Diversionary Conferencing are not restricted on the basis of their ethnicity.

(3) In situations where resolution is unsuccessful all members of the community, including Aboriginal persons, are subject to the normal processes of the law.

(4) Most police practices are the same for all members of the community. However, police have specific procedures which accommodate the special needs of a number of groups in the Canberra community including Aboriginal persons, mentally ill patients and juveniles.

No.

(6) While the Discrimination Act 1991 (the Act) makes discrimination because of race unlawful in certain areas, it also recognises that in some circumstances it is necessary to focus on equality of outcomes and not simply equality of treatment. In some circumstances treating everyone the same can be discriminatory.

Section 27 of the Act provides that it is not unlawful to discriminate if the reason was directed to ensure equal opportunities for a group or to meet the special needs of a disadvantaged group.

**MINISTER FOR HOUSING AND COMMUNITY SERVICES  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION N01314  
Housing Trust - Hughes Property**

MR CORNWELL - Asked the Minister for Housing and Community Services

- (1) Is *the ACT* Housing Trust property at Block 44, Section 14 Hughes (39 Kitchener Street) currently vacant. If so, for how long has the property been vacant.
- (2) If the property has recently been tenanted, for how long was the property vacant.
- (3) Why was the property vacant for a lengthy period.
- (4) What were the circumstances behind the previous tenant vacating (eg transfer to more suitable housing, left Canberra, left without advising Trust etc.).
- (5) If the property is still vacant, when is it anticipated that it will be tenanted.

MR LAMONT - The answer to the Member's question is as follows:

- (1) No.
- (2) From 6 March to 12 June 1994.
- (3) To allow necessary maintenance to be carried out following an initial administrative delay. There was a delay in the tenant returning *the* keys.
- (4) The previous tenants' Housing Trust house had been severely damaged by fire. They were allocated this property temporarily until a house meeting their needs became available. —
- (5) See (1) above.

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**MINISTER FOR HOUSING AND COMMUNITY SERVICES**  
**LEGISLATIVE ASSEMBLY**  
**QUESTION NO. 1315**  
*Florey House*

MR CORNWELL: Asked the Minister for Housing and Community Services -

(1) Is it a fact that a property at No. 1 Edman Close Florey, originally purchased for the Family Services Bureau, was sold in 1992 because Family Services "decided they didn't need it" (The Canberra Times, 2 June 1992).

(2) How much did the property sell for.

(3) Is another property now being built or purchased for the same or similar purposes as (1) and if so, where.

(4) What is the cost of this second property.

(5) Why is it being built or purchased.

MR LAMONT. The answer to the Members question is as follows -

(1) The property at No. 1 Edman Close, Florey - "Florey House" was not purchased, it was constructed in 1987-88. The property was used to provide care, in a residential setting, for children with difficult behavioural problems who were unable to be cared for by other foster or residential care programs at that time.

In May 1990, a review of substitute care services initiated by Family Services Branch was completed by Bruce Callaghan and Associates. The Review highlighted the unusually high dependence on residential care in the ACT compared to the situation interstate as well as overseas. Professional opinion in the field advocated the provision of quality family based care, which offers the child a range of normal family and community experiences, for children who are unable to remain with their families. Foster care was therefore preferable to residential care and should be used wherever appropriate. As a result of the review, Family Services Branch, in consultation with the funded substitute care agencies in the ACT, took steps to address this imbalance.

The closure of Florey House was in line with the new directions in substitute care taken by Family Services Branch.

(2) The property was sold for \$195,000.00.

(3, 4, 5) No.

**MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING**

**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION NO 1316**  
**Environment, Land and Planning Portfolio -**  
**Field Officers' Houses**

Mr Cornwell - To ask the Minister for the Environment, Land and Planning = 'In relation to houses occupied by the Department of the Environment, Land and Planning rangers and other "field" officers, for example those with an adjacent area for the grazing of horses

- (1) How many applications have been received or discussed with regard to the purchase or change of lease of those houses by the current tenant.
- (2) Which houses or homesteads (block/section) have been requested for "purchase".
- (3) What criteria will be considered in making a decision over the future of these houses.

Mr Wood - the answer to the member's question is as follows:

- (1) The Lease Administration Branch of the Department of the Environment, Land and Planning has received three lease applications for houses occupied by rangers and other "field officers" of the Department.
- (2) Three ACT Housing Trust properties, situated on the following blocks are the subject of the lease applications.

Blocks 40 and 57 Stromlo, Block 556 Majors, and Block 1 Section 33 Pialligo.

- (3) The criteria used for assessing the applications are:
  - . that the applicant must be the occupier of the land or the lessee or occupier of the adjacent land,
  - . that the applicant must be able to manage the land in accordance with the lease conditions, and
  - . the applicant must pay the land rent and all the fees and charges applicable.

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**MINISTER FOR EDUCATION AND TRAINING**

**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION NO 1317**  
**Government Schools - Strategic Plan**

**MR CORNWELL** - asked the Minister for Education and Training on notice on 16 June 1994:

- (1) Where is "A Stimulus Paper for ACT Government Education" report.
- (2) Is it available. If so, can a copy be provided to interested people, including myself.
- (3) If not available, why not.

**MR WOOD** - the answer to Mr Cornwell's question is:

- (1) "A Stimulus Paper for ACT Government Education" has not been produced by the ACT Department of Education and Training. The concept was subsumed by the first report of the Ministerial Advisory Council on Public Education (NACRE). I tabled the NACRE report in the Assembly on 18 May 1994 and it was subsequently released publicly.

My department is currently preparing a draft strategic education plan which draws on the NACRE report, and which will be available for consultation in the near future.

- (2) Not applicable.
- (3) Not applicable.

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**MINISTER FOR HOUSING AND COMMUNITY SERVICES  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO 1318**

**Housing Trust - Welfare Accommodation**

MR CORNWELL - Asked the Minister for Housing and Community Services -As at 16 Jute 1994 -

- (1) What percentage of ACT Housing Trust properties can now be classified as welfare accommodation.
- (2) How many properties does this represent.
- (3) What is the total of Trust stock:
- (4) Approximately how many people does the welfare component of the Trust stock represent
- (5) Can I be provided, as soon as possible, with an update of figures requested in (1), (2) and (3) in relation to the period 17 jams to 30 June 1994. If so, when will it be provided.

MR LAMONT - The answer to the Member's question is as follows (as at 30 June 1994) \_

- (1) None. ACT Housing Trust properties are classified as public rental housing. However, 879'0 of Housing Trust tenants are receiving a rent rebate *which* represents 10,841 dwellings.
- (2) See (1) above.
- (3) 12,405 dwellings.
- (4) See (1) above.
- (5) Refer to answers above.

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**MINISTER FOR HOUSING AND COMMUNITY SERVICES  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO 1319**

**Housing Trust - Rent Arrears**

MR CORNWELL - Asked the Minister for Housing and Community Services -Further to your offer (letter of 17 May 1994) to provide aggregated data on ACT Housing Trust rental arrears rather than tenant-specific-data -

- (1) As at 16 June 1994, what was tenant arrears, by suburb for (a) current accounts; and (b) vacated accounts.
- (2) How many (a) houses; (b) flats; and (c) bedsitters are involved by suburb in (1) (a) and (1) (b).
- (3) In 1993-94 (a) how many houses, by suburb, required "extensive renovation" as a result of wilful damage by tenants; and (b) what was the financial cost, by suburb, of it.

MR LAMONT - The answer to the Member's question is as follows (as at 1 July 1994) -

- (1) Refer to Attachments A and B.
- (2) This information is not readily available.
- (3) This information is not available.

However, \$648,502 was raised in work orders for tenant responsible maintenance (wilful and accidental ) for the period 1 July 1993 to 26 June 1994. This includes the cost to repair wilful damage but it cannot be separately identified.

Tenant responsible maintenance is claimed back from tenants.

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**MINISTER FOR URBAN SERVICES  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO 1320  
Holder High School Site**

Mr Cornwell = asked the Minister for Urban Services:

- . In relation to the former Holder High School
- . (1) How long has the property been empty since closing as a school.
- (2) Have proposals been received for alternate uses. If so, what were the proposals.
- . Are any proposals under active consideration. If so what are the proposals. .
- (4) . . When is it anticipated that a decision will be made upon the future of the school.

Mr Lamont = the answer to the question is as follows:

- (1) The property has been vacant since it was transferred to my Department on 1 July 1993.

Yes.

- 'New Creation Ministries' . . Meeting rooms.
  - ACT Badminton Assoc: . **Sporting club**
- . Woden/Weston Basketball Club: 'Sporting club..
- \_ Canberra Business Centre: \_ Buss Came.
- . ACT Sport and Recreation: - Sports.
- Canberra Inventors Assoc: Innovation Centre. .
- . -Prier Evans. Redeveloper . y .,
- Canberra Institute of Technology: Educational ..
- . ACT Table Tennis Assoc: . . Sporting club.
- . Orana School: . Educational.

3 Yes. All .

- (4) . As soon as practically possible.

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**ATTORNEY-GENERAL  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO 1323  
Restraining Orders**

Mr Cornwell: asked the Attorney-General - In relation to restraining orders -

- (1) Do all initial applications for a restraining order result in an interim restraining order being issued.
- (2) Between 1 January 1994 and 31 March 1994 how many (a) interim orders were applied for; and (b) were pursued after their expiry and were replaced by restraining orders proper.
- (3) How are these interim orders served.
- (4) What criteria are used in making the decision about the issue of an interim order.
- (5) What is the process which follows the initial application.
- (6) Are all applicants entitled to free legal aid at the time of application being lodged.
- (7) Are these age restrictions applying to application for interim restraining orders.

Mr CONNOLLY: The answer to the member's question is as follows -

- (1) No. Not all initial applications for restraining orders result in an interim order being issued.
- (2) (a) Number of Interim orders applied for between 1 January 1994 and 31 March 1994

January	30
February	28
March	55

Total 113

Number of final orders granted for the same period

January	is
February	26
March	39

Total 83

- (b) Approximately 70% of orders applied for resulted in final orders being granted.
- (3) The Australian Federal Police serve orders.
- (4) Section 2060 of the Magistrates Court Act 1930 prescribes the criteria relevant to the making of an interim order.
- (5) Section 199 of the Magistrates Court Act 1930 provides that an application is to be fixed for hearing not more than 2 days after the date on which the application is filed. Where an interim restraining order is sought, the matter is listed before a Magistrate on the day of filing for the determination of the application for an interim order and then adjourned for a period of up to 10 days. Where an interim order is not sought, the application is listed before the court within 2 days of filing of the application. *The case* management practices of the Magistrates Court are otherwise applied in the disposition of an application.
- (6) Access to free legal aid is a matter to which relevant legal aid guidelines apply.
- (7) No. There are no age restrictions applying to application for interim restraining orders.

**MINISTER FOR SPORT**

**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION No. 1324**

**Tuggeranong Swimming and Recreation Centre**

Mr Cornwell - asked the Minister for Sport - What decisions were being made about methods of management of Tuggeranong Pool

- (1) Did Government officers seek advice regarding the most efficient and economically viable methods of management of such a facility. .

(2) If so, how did they go about this, if not, why not.

(3) Did a Victorian company (which professionally manages swimming/recreation centres for a set fee while guaranteeing profitable returns to the Government which retains ownership) contact the Government or any one of its offices or departments regarding management at that Centre.

(4) If so, why did the Government refuse the offer that was made.

(5) For what reasons did the Government decide to opt for the present system of management.

Mr Lamont - the answers to the Minister's questions are as follows: s

(1) The Government, through the Department of the Environment, Land and Planning and ACT Treasury, examined a number of options for managing the Tuggeranong Pool and Recreation Centre.

(Z) Expressions of interest for management of the facility were called for following approval to construct the Centre. - -

(3) Yes.

(4) Three management options for the Tuggeranong Swimming and Recreation Centre were examined. Public Sector Management, Management under contract and joint Public Sector/Community Board of Management.

Public management and operation of the Centre was preferred because it was considered to best meet the needs of the community.

(S) See answer No. 4.

**MINISTER FOR HEALTH  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO 1325  
Health Portfolio - Community Medical  
Practitioner's Motor Vehicle**

Mr Cornwall - asked the Minister for Health - In relation to motor vehicle registered as 204-123 by your Department-

- (1) Why was this vehicle parked unattended and unmoved for a period of about 1 month during April/May in a public street.
- (2) If it was known that *the vehicle* was to be unused for an extended period, why was the vehicle not parked in a secure area or used by another officer for that period.
- (3) Does the department have access to so many vehicles that this vehicle could not have been used better for that period.
- (4) Did the officer who have use of this vehicle advise the Department that the vehicle would be parked in an unsecured area for an extended period of time.
- (5) Why is this vehicle assigned to this particular officer and why did this officer not use the vehicle for that period.
- (6) What regulations exist regarding the use of Government vehicles and the safekeeping of those vehicles.

Mr Connolly- the answer to the Members question is:

- (1) The Community Medical Practitioner who has use of the vehicle was on leave during April and May. He has stated that the car was not parked in a public street.
- (2) The Community Medical Practitioner to whom the vehicle is allocated has private use of the vehicle. He is under an obligation however to keep the vehicle in accordance with the regulations.
- (3) No
- (4) No
- (5) The Community Medical Practitioner, as a result of specific terms and conditions in his employment contract, has private use of his allocated Government car. He was on leave during the period in question.
- (6) The " Policy for the Management and Use of ACT Government 200 Series and Private plated Non SES Self Drive Vehicles" outlines the use and safekeeping of those vehicles.