



**DEBATES**

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

16 October 1991

**Wednesday, 16 October 1991**

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**MR SPEAKER** (Mr Prowse) took the chair at 10.30 am and read the prayer.

**PROSTITUTION BILL 1991**

**MR MOORE** (10.31): I present the Prostitution Bill 1991. I move:

That this Bill be agreed to in principle.

Mr Speaker, the second Bill that I will introduce - and I foreshadow that now - is the Prostitution (Consequential Amendments) Bill. It is designed to wipe the slate clean as far as current legislation on prostitution is concerned. That Bill will remove even the common law offences relating to prostitution that have governed the way prostitution has been dealt with, as well as the Crimes Act, and it will remove several strange anomalies.

One example is the provision for a person of unsound character to be asked to leave a coffee shop or a place where drinks are served. That provision would apply to a prostitute, and a \$10 fine was provided for under the Police Offences Act, I believe. It is appropriate to remove that sort of anomaly from our law, and that applies right across the laws applying to prostitution. The consequential amendments would, on their own, provide for true decriminalisation of prostitution.

This Bill, of course, goes much further than that. The Bill that has been introduced is intended to provide regulation for prostitution. It proposes to establish a licensing board which would provide licences in class 1 or class 2. A class 1 licence would be provided for a brothel or escort agency of 40 workers and a class 2 licence for such an establishment having 10 workers.

The financial implications of this Bill are neutral, but I believe that it may be appropriate for a Minister to decide to move an amendment to the Bill to provide remuneration for the licensing board. Should such an amendment be proposed, I would certainly welcome it. At the same time, I think the understanding would be that licensing fees from such brothels would, of course, cover all costs associated with the licensing of brothels and the regulation of them.

Members, there is no doubt that, over the next few weeks prior to this Bill being debated in the house, you will be lobbied on compulsory testing. Compulsory testing is something that was dealt with in our report - and this Bill is based entirely on that report. It recommended that there not be compulsory testing. I think you will find, in your reading of the Bill, that it does actually encourage testing; but it certainly does not provide for compulsory testing. The major disadvantage of compulsory testing as far as prostitutes are concerned is that a test is really only as good as the very next customer.

I suppose that if you were inclined to advocate compulsory testing of prostitutes you should also be advocating compulsory testing of clients, and that certainly would not be possible. As I say, testing is encouraged in this legislation, but compulsory testing is in fact discouraged because of the way it would be used. This Bill provides for the situation where somebody attempts to use a test as a method of showing that a prostitute is in some way clean, which is an entirely inappropriate way to go. I think that comes through very clearly in the Bill. So, I foreshadow that there will be some lobbying to that effect, and I think it is something that ought to be resisted.

I should also add that, since our report has come down, there has been some question as to whether or not there should be a fine for the non-use of prophylactics. My advice on this, subsequent to the report, was that, if a person goes to a prostitute and says, basically, "I want unprotected sex", the intent of the crime is there and therefore the crime is committed. If the same person went to two or three prostitutes and said the same thing, there would be enough evidence for a prosecution to be carried out. This emphasises how important safe sex measures are.

That is the main reason that the provision is there. The other reason, of course, is that the provision in the legislation for a \$5,000 fine for failure to use prophylactics empowers the workers, the prostitutes, to say to people, "There is a \$5,000 fine associated with this and your suggestion is, in itself, breaking the law". That way we can feel more comfortable that we will not see a spread of AIDS.

**Mr Berry:** How many inspectors would we want?

**MR MOORE:** An interjection from Mr Berry asks, "How many inspectors would we want?". It should be made very clear that at no stage do I foresee inspectors in this area. Of course, it would be very easy to make a flippant and light comment on what is a very serious matter. Mr Speaker, I seek leave to present an explanatory memorandum to the Bill.

Leave granted.

Debate (on motion by **Mr Berry**) adjourned.

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## **PROSTITUTION (CONSEQUENTIAL AMENDMENTS) BILL 1991**

**MR MOORE** (10.39): I present the Prostitution (Consequential Amendments) Bill 1991. I move:

That this Bill be agreed to in principle.

Mr Speaker, the Prostitution (Consequential Amendments) Bill 1991 is, as I foreshadowed earlier, the Bill that wipes the slate clean. I believe that it is an important part of ensuring that prostitution is handled appropriately in the ACT. I seek leave to present an explanatory memorandum to the Bill.

Leave granted.

Debate (on motion by **Mr Connolly**) adjourned.

## **MULTICULTURAL RADIO STATION Proposed Establishment**

Debate resumed from 11 September 1991, on motion by **Mrs Grassby**:

That this Assembly supports the Ethnic Broadcasters Council of the ACT and surrounding districts in their efforts to establish a community based multi-cultural radio station for the Canberra Region.

**MR JENSEN** (10.40): Mr Speaker, I was proposing to move an amendment to this motion. As I indicated in the previous debate on 11 September, when this matter was first brought forward, while I acknowledge and accept the need for the ethnic community within the ACT to have access to a licence, I think it is also important to realise that a number of other community groups within the ACT have been seeking, for a number of years, to develop and operate public radio. In fact, one in particular has been operating for over eight years, and it is currently able to operate for only 28 days a year.

It appears that the Federal Government will allow only one extra licence in 1993. In view of the demand for additional public licences, the Federal Minister should consider allowing more than one licence. As a form of compromise on my proposal, might I suggest, if it is acceptable to Mrs Grassby, the mover of the motion, that we add to the motion, "and calls on the Federal Minister for Transport and Communications to allocate more than one public radio licence to the ACT in 1993".

I do not know whether Mrs Grassby would be happy for me to add that to the motion. I do not want to get into a long drawn out debate here this morning, for obvious reasons; but I think it is appropriate that this proposal be widened slightly. I did not really get an opportunity to raise this part of my proposed amendment with Mrs Grassby. I did discuss the other one. I wondered whether I could get an indication, because I do not wish to drag it out.

**Mrs Grassby:** Mr Speaker, there is an amendment which will be handed around.

**MR SPEAKER:** Order, Mrs Grassby! Have you concluded your speech, Mr Jensen?

**MR JENSEN:** Mr Speaker, for the purposes of the record then, seeing that I cannot get a wink or a nod from Mrs Grassby on this, I formally move:

After "Region" add "and calls on the Federal Minister for Transport and Communications to allocate more than one public radio licence to the ACT in 1993".

**MR KAINE** (Leader of the Opposition) (10.43): Mr Speaker, reluctantly - because I have not discussed this with Mr Jensen either - I will not support this amendment. The reason that I will not support it is that it muddies the water, and reduces the impact of the motion that Mrs Grassby has put forward, which I support. I think that to start at this stage to talk about licences, when Mr Jensen has already said that it is the Minister's intention to issue only one licence, and to throw in the suggestion that we ought to be considering other contenders is simply to weaken the case that Mrs Grassby has put forward - and there is no question at all that there is a strong case for a community based multicultural radio station in this region.

I think that we should stick with that proposal. We should put it firmly, and without equivocation, that we support this particular proposal. For that reason, I would have difficulty with going to the lengths that Mr Jensen is proposing here. I do not have any objection, in principle, to what he is suggesting. But I think that it would be much more productive if he would deal with that matter as a separate motion to be considered on its merits, rather than trying to tack it onto the end of this one, which is a good motion in its own right and one which I believe this Assembly ought to unanimously support.

Mr Jensen's proposal could then be taken as a separate motion - and it really is a quite different proposition that he is putting forward. It does not have anything to do with a community based multicultural radio station. In fact, I think one could argue that it would be improper to attach that amendment to this original proposal, because it does not relate to the original motion in any way. It

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would certainly detract from it. As I said, although I have not discussed it with Mr Jensen - I have not had the opportunity to do so - on the face of it, I could not support his amendment in its present form.

**MR SPEAKER:** Do we have that amendment in writing?

**Mr Jensen:** I will give it to you. It is actually not - - -

**MR SPEAKER:** I need to see the amendment. It may be in a form such that it blocks any new amendment. So, I have to get a copy of this amendment.

**MR HUMPHRIES (10.47):** I am not sure what the thrust of the amendment is.

**Mrs Grassby:** I think you had better find out first, before you speak.

**MR HUMPHRIES:** I do not intend to comment on the amendment; I am going to leave that to others. I will say, however, that I am broadly in agreement with the terms of the motion put forward by Mrs Grassby. I imagine that most of us are. It constitutes a welcome comment, in the circumstances, on the need for diversity of cultural inputs of the kind that one gets with radio.

I might mention, though, something which I do not believe has been said elsewhere in this debate, and that is that the reasons for the desire by groups such as the Ethnic Communities Council for a separate ACT ethnic broadcasting capacity - that is, separate from its present home at Radio 2XX - have a lot to do with politics. I have spoken to a number of people on this subject and the point often put to me by members of ethnic communities who would like a capacity separate from 2XX is that the complications that arise from having ethnic broadcasting from 2XX are great. In particular, there are, frankly, conflicts between the political positions and preferences of many of those groups that broadcast ethnic programs from 2XX and the management of 2XX itself.

That is not to say that I am opposed to either 2XX or ethnic broadcasters having their say, in appropriate circumstances; that is a much broader debate than is being held here today. But it is clear that part of the reason that we are today seeing concern about this and a desire for a separate ethnic broadcaster is that many ethnic organisations are unhappy with the political standpoint that 2XX quite naturally takes. It may well be that the separation of those two functions is a desirable thing from a number of points of view.

I am sure that it is inevitable that we will see political points of view come across, from time to time, on any broadcasting of any kind. It might not be so apparent with commercial radio stations; but, of course, it is very much the case that, in any broadcasting, when any person speaks into a microphone there is naturally some political element in what they say in certain circumstances. Equally, in the present context, for example, where we have Croatian or Serbian programs being broadcast, it is inevitable that there will be a large element of political content.

So, rather than pretend that these things are not there and trying to neutralise them, one ought to be prepared to acknowledge them and strike some balance. For that reason, I can see that the balance presently obtained at 2XX is probably not appropriate for some organisations and that they would well benefit from having a separation of those two roles. Therefore, the motion itself - whether it will be amended or not I could not say - will certainly be supported by most members of this Assembly.

Question put:

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

The Assembly voted -

*AYES, 5*

Mr Collaery  
Mr Jensen  
Dr Kinloch  
Ms Maher  
Mr Stevenson

*NOES, 11*

Mr Berry  
Mr Connolly  
Ms Follett  
Mrs Grassby  
Mr Humphries  
Mr Kaine  
Mr Moore  
Mrs Nolan  
Mr Prowse  
Mr Stefaniak  
Mr Wood

Question so resolved in the negative.

**MRS GRASSBY** (10.57), by leave: I move:

After "supports" insert "as a priority".

In moving this amendment, I point out that I am not against Mr Jensen's proposition; I think that it was a very good one. The point is that I did not want it tagged onto a very important motion which I understood the whole house was going to vote for and could be, I felt, congratulated for doing so. I think his proposition should be a separate motion. I think it is a priority that ethnic radio be granted a licence; they have waited a long time for this.



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As I said in my earlier speech, every other capital city in Australia has an ethnic radio station - but not Canberra. We all know that this is one of the most multicultural cities in Australia. Therefore, I felt that it was a priority. I feel that 2XX does an absolutely wonderful job, but I think it covers a certain field and ethnic radio should not be tagged onto it. The fact is that very little time is allotted for ethnic broadcasters, and very few languages have the opportunity to be broadcast. This is unfair.

Therefore, there is probably more reason for there to be more public radio licences, but I do not think we should have to wait for that before we have an ethnic radio station. I think that they have waited long enough. They have asked for support. They had a committee go through the process of trying to come to an agreement with the Federal Government. They have been told that in 1993 they will get one - although that is not in writing; they have no positive proof that they will get it. Therefore, I think a little urging of the Federal Government by this house would be appropriate. A majority vote in the house would provide that little bit of extra pressure. It would say that the Assembly itself had come to a decision that they have the right to this station and that it should be brought on line as soon as possible - and I think it should be before 1993.

These people who have come to make this place their home have a right to hear what is happening in the world today - not only in English, in which they get very little news, but also in their native language. Anyone who has listened to the radio over the last few days, even on very good radio stations such as the ABC, will know that we have been hearing about a judge nominated for the Supreme Court in America until it is nearly coming out of our ears; and we have been hearing about CHOGM. But what, really, do we get about the rest of the world? Our news seems to come from England or from the US. I am not against this, but I honestly believe that these people have a right to know what is happening back in their own country where they have relatives.

Therefore, to me, it is a priority. But I believe that we should be voting for the priority of the motion that I put up in the first place and not muddying the waters, as Mr Kaine said, by adding to it. I do not think public radio licences should be piggybacked onto ethnic radio. Ethnic radio is an entirely different form of radio station, and I think that this motion should go through.

Mr Jensen was in government for seven or eight months, and he was here before that. If he believed that this was so important, he could have put up such a motion. Why now, at the last minute, is he piggybacking this onto mine? I am afraid that I could not agree to that. I think it is important that there be more public radio stations; but I do not agree that it should be tagged onto ethnic radio,

putting ethnic radio on the back burner again. I think it has been on the back burner long enough. I think it should be put onto the front burner, and I think these people should be given this right - long before 1993.

Amendment (**Mrs Grassby's**) agreed to.

Motion, as amended, agreed to.

### **DRUGS OF DEPENDENCE (AMENDMENT) BILL 1991**

**MR COLLAERY** (11.02): Mr Speaker, I present the Drugs of Dependence (Amendment) Bill 1991. I move:

That this Bill be agreed to in principle.

This Bill and the Liquor (Amendment) Bill (No. 2), which will follow shortly, form a double package. They were originally listed for introduction on 18 September 1991, but were not reached due to an unusual listing of private members' business. Since that time, the Assembly's HIV, Illegal Drugs and Prostitution Committee has provided an interim report to the Assembly on the marijuana issue.

Whilst the committee's recommendations may be a call for optimal reform, it is evident that the only realistic chance for this Assembly to support reform in this area is to adopt the South Australian regime. Regrettably, to proceed with a more general relaxation as recommended by the committee will feed reactionary forces and ultimately weaken reformist numbers in this Assembly. The enlightened amendments to the Motor Traffic (Alcohol and Drugs) Act 1977 suggested by the committee require community, including law enforcement, comment. They may well complement this package at a later stage.

The Drugs of Dependence (Amendment) Bill and the Liquor (Amendment) Bill, which will follow, consolidate the experience gained in South Australia, where small amounts of cannabis used only for personal use were made no longer the object of criminal sanction in 1987. Let me say at the outset that the term "decriminalisation" suggests an open go regime. Nothing can be further from the truth. Decriminalisation in the South Australian context simply removes the criminal sanction. It does not do away with the offence. In simple language, it creates an on-the-spot fine.

I have long held the view that there is a double standard in our society: Whilst young people are treated as criminals, adults freely indulge in alcohol abuse, which is costing our community \$6 billion a year. Criminal sanctions against marijuana mean that young people detected with a small amount of cannabis for personal use can be

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arrested, charged, photographed, fingerprinted, bailed and put to their trial, where they are ultimately fined - often less or no more than what this amending Bill sets as the on-the-spot fine.

That process continues to alienate a significant number of young people from society. They emerge as convicted criminals. They have experienced a system which sets a double standard. They are prejudiced throughout their life in job seeking, particularly in areas relating to the defence services, the police and national corporations. As well, a number of countries will not grant entry visas to convicted persons. These young people are, in short, stigmatised. The object of this Bill is to do away with the stigma, not the offence.

Smoking is a health hazard. Smoking marijuana must also be a hazard. It is not the purpose of this legislation to enter the debate as to whether cannabis smoking is harmful. For my purpose, I assume that, at the very least, it is in the same category as tobacco. Therefore, the community must continue all efforts to deal with the smoking issue. Imposition of a criminal sanction has achieved nothing but alienation. Decriminalisation is in line with modern developments - suicide and other social phenomena have been decriminalised.

It would be most unfortunate if judgmentalists in our community see this Bill as leading to the corruption of our youth, or the poisoning of society. North American parallels are not entirely relevant. There decriminalisation became mixed with laissez-faire community values. Fortunately, Australian society, as the South Australian community has demonstrated, is cohesive and backed by a police force responsive to community values, which oppose laissez-faire drug policies.

Critics should not lose sight of the fact that the police themselves have some inhibitions about applying the full processes of the criminal law to young persons caught with a small amount of cannabis. There may well be added vigour by the police in their enforcement function if there is an on-the-spot fine which, South Australian practice shows, decreases the need for police officers to expend valuable resources by attending court hearings and to all of the associated paperwork.

Cannabis has held Australian society spellbound for the past 20 years - not because of the substance itself or the image of people smoking it or using it, but because of its connections with organised crime. There has been far greater attention on the plantation busts, the corruption of our public officials, our police, the murders, and the other unsolved riddles of organised crime than there has been on any debate about the inherent dangers of using the substance.

The purpose of these Bills is to put in place a new approach towards controlling the substance, and, so much as is possible, controlling the underground network of supply which has become the greater evil. While the use of cannabis cannot really be condoned, a far greater evil is the organised crime behind it. If we cannot eliminate the substance, we should control its use, to reduce the scope for large-scale trafficking, blackmail and corruption.

On 30 April 1987, the South Australian Government introduced an expiation system for the possession, cultivation or private use of small amounts of cannabis by adults. That Government introduced a different penalty regime for the use of this substance. The Bills before the house today also seek to alter the form of punishment for this offence. South Australia followed at least 10 United States jurisdictions and initiatives that have been taken elsewhere in the Western world. The term "decriminalisation" is, in the popular sense, a misnomer; it suggests liberalisation or legalisation, neither of which is true.

The South Australian Government completed, at the end of 1989, a two-year review of the effects of its law reform. That reputable study, conducted by the Office of Crime Statistics of the South Australian Attorney-General's Department, sought to determine whether these new procedures, allowing some offences to be dealt with outside the courts of criminal jurisdiction and subjected to the on-the-spot penalty, had broken down symbolic barriers to cannabis use, particularly among young people, such as to, in fact, encourage more widespread use.

The South Australian study does not support this proposition. The study, based on police statistics, does not reveal a changed pattern to the circumstances of cannabis offences and the social profiles of detected users. The study concludes that the amendments to South Australian legislation had not precipitated major changes in the extent or nature of cannabis possession, cultivation or use.

This law reform move heavily distinguishes between private consumers of cannabis and large-scale operators. In fact, the Bill before the house imposes a far stricter regime on commercial operators. It imposes heavy penalties and mandatory imprisonment, subject to judicial discretion, for those who deal with cannabis at schools, youth centres, swimming pools and the like. As well, I have adopted a recent Northern Territory initiative and will propose an amendment to the Liquor Act to ensure that licensees are more vigilant about drug dealing on their premises. The amendments to the Liquor Act give the registrar power to cancel a licence - a reviewable decision - in the event that there are two convictions for drug dealing within 12 months relating to those licensed premises.

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The ACT community should be properly concerned about the resources that at times are thrown into the court battles over these matters. Members will be aware that on 23 August 1991 I placed a question on notice so that greater detail could be given to this house, and to the public, in relation to the cost of drugs of dependence prosecutions and, in particular, cannabis prosecutions. First, there is the cost of analysis. There is the whole manpower cost of pursuing, and preparing the police brief; there is the cost to the Director of Public Prosecutions; there is the drain, often on parents' financial resources, of supporting their children in this situation. Finally, there are the court resources that are tied up, and the outcome is often a fine of between \$100 and \$200.

I stress that it is a misnomer to say that the growing of cannabis has been decriminalised in South Australia. It is still an offence; it attracts a penalty of \$150 and/or the plant is pulled up and destroyed. I have had the benefit of discussions with the South Australian authorities whilst Attorney-General. I was accompanied to those discussions by the then Assistant Commissioner of the Territory police, Assistant Commissioner Brian Bates. Since then, law officers, at my request, went to South Australia to undertake further research. In South Australia, up till March this year, 5,827 cannabis expiation notices had been issued. Two per cent of cases were defended, 78 per cent of people charged paid at the court where they were summonsed - that is, they pleaded guilty - and 20 per cent of summonses were not served.

I was advised that in South Australia the judiciary, the police and, in particular, the Police Association, accepted the law and the decreased demands on police, court and judicial resources. I again commend to members the report on cannabis prepared by the South Australian Government, a copy of which is in the Assembly library. There is also a considerable amount of statistical information available from the Bureau of Criminal Intelligence - and it is interesting to note figures which indicate that the use of amphetamines in South Australia is at a low per capita level.

Finally, drug addiction is a problem in our society. Experience has shown that our youth need clear, consistent and exemplary messages in terms of their social behaviour patterns. We have failed them miserably on alcohol; we have failed them miserably in the violence in our language, the public brawling of their elders, the public verbal brawling of their political leaders, and the constant disclosures of corruption in the highest places. Despite this, we set a higher standard on our youth.

Your average club-goer is happy to go home in a taxi from a club feeling happy and elated after, probably, a tough week's work. We set a different standard for our kids, who are often unemployed; and this, at core, is the motivation for introducing these Bills. We will maintain the offence

but not the heavy judgmental system that goes with it. We will eliminate the fingerprinting, the parading, the public ignominy and the alienation, and then take renewed steps to combat commercial marketing of the drug. I commend the Bills to the house.

Debate (on motion by **Mr Connolly**) adjourned.

### **LIQUOR (AMENDMENT) BILL (NO. 2) 1991**

**MR COLLAERY** (11.12): Mr Speaker, I present the Liquor (Amendment) Bill (No. 2) 1991. I move:

That this Bill be agreed to in principle.

Mr Speaker, I anticipate, subject to the will of the Assembly, that this Bill will be debated cognately with the Bill that I just presented in relation to drugs of dependence. Briefly, section 53 of the Liquor Act allows a registrar to deal with the cancellation of licences relating to liquor establishments. This provision seeks to insert a new ground - and it is a ground only; it is not prescriptive or mandatory. That ground is set out in the Bill and it provides that, where, in any period of 12 months, more than two persons have been convicted of an offence committed on the licensed premises, the licence can be reviewed.

Debate (on motion by **Mr Connolly**) adjourned.

### **CRIMES (AMENDMENT) BILL (NO. 3) 1991**

**MR COLLAERY** (11.14): I present the Crimes (Amendment) Bill (No. 3) 1991. I move:

That this Bill be agreed to in principle.

Mr Speaker, on 21 December 1989, the High Court decided in *S v. the Queen*, reported in volume 64 of the *Australian Law Journal Reports*, page 126, that there was a need for specificity in counts of an indictment relating to alleged multiple acts of incest. In simple language, the case highlighted the difficulty of securing a conviction when a child cannot remember the dates of sexual abuse. It has been said that only a small proportion of declared cases of child abuse result in prosecution. This is due to a variety of factors - some for reasons to do with the well-being of the child, but, in most other cases, because there is little evidence of what has happened, apart from the word of the child.

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It is not the purpose of this amendment Bill to suggest to the Director of Public Prosecutions that all cases should be brought to trial. Where a decision is properly taken to pursue an offender in the courts, this proposed amendment to the law will overcome the legal difficulty highlighted by the High Court decision in *S v. the Queen* and which was further exemplified, though not on exactly the same grounds, in *Podirsky v. the Queen*, reported in 1990 *Western Australia Reports*, page 128, where the High Court's decision referred to earlier was applied.

We are aware that the National Association for the Prevention of Child Abuse and Neglect, known as NAPCAN, has been pressing for a response to the High Court's decision. There can be no justification for a delay by any legislature in rectifying this problem. Accordingly, we commend this Bill to the house, and draw members' attention to the fact that the provision has some aspects which excite the attention of jurists.

In particular, it is a criminal provision which may have limited retrospective effect. Many of us are inured to the view that no-one should be put to their trial for acts which did not constitute a criminal offence at the time they were committed. That view suffered, to some extent, during the bottom of the harbour changes to tax laws, and there has been widespread debate again in relation to war crime trials.

Putting those matters aside, I advise the house that the Bill provides for retrospective commencement back to when Part IIIA of the Crimes Act commenced, namely, 28 November 1985. This is convenient from a drafting point of view, because the definition of "particular sexual offence" in proposed section 92EA subsection (1) refers to an offence under another provision of that part. The Bill, therefore, contains a commencement clause, rather than providing that the offence applies to acts occurring, whether before or after the date of commencement.

There would be drafting difficulties, on my advice, in simply providing that the new offence applies to acts occurring "whether before or after the date of commencement". This is because the offence and the defences allowed each contain temporal elements.

I accept that there are some technicalities about this provision; but, in round terms, I am prepared to accommodate limited retrospectivity in a provision relating to an offence which in any enlightened regime would require a guilty intent, although, in point of law, not a criminal guilty intent. Acts of incest are an abomination, and I fail to see why, subject to proper discretion and guidelines of the Director of Public Prosecutions, they should not have retrospectivity for six years in the context of this Act.

We have, therefore, introduced the concept of making the maintaining of a sexual relationship with a child sufficient to complete the offence. This overcomes the problem of framing the indictment when the child cannot remember the date that he or she was abused, and, as members know, that is a common occurrence.

I ask members to give careful attention to this Bill, and not to allow the retrospectivity issue to delay the passage of this legislation. In other words, if the house does not support the clause as drawn, because it wishes to see either longer retrospectivity or none whatsoever, then I ask that that debate be deferred to another time and we agree to simply delete the retrospectivity clause for the time being. We say this because the premeditated, self-indulgent sexual abuse of children is a gross violation of values. It is an exploitation which exists at all levels of our culture, and the real magnitude is yet to be determined.

As informed commentators state, many children feel guilty about the abuse and do not report it. The most important aspect of this abuse is that, in the great majority of cases - estimated at over 80 per cent - abuse occurs from family members or acquaintances; that is, people who have a caring role in relation to an abused child. In other words, lurking around our suburbs, and in certain caring situations - and I stress "certain" - are those who will exploit young children.

The breakdown of the extended family and different family patterning provide deviants, in some instances, with a further scope to interfere with children and, in so doing, they breach a position of trust. Where the law wishes to punish this behaviour, it should not be impeded by any further delay by the legislature in rectifying the problems identified by the High Court.

Proposed section 92EA paragraph 5(b) is suggested as an additional ground of defence. It takes account of the possibility that the adult and the young person might be married or have entered into a union in the nature of a marriage under a law of a foreign country. Although such a marriage would not be recognised as valid in accordance with section 88D subsection (1) of the Marriage Act 1961 of the Commonwealth - at least, apparently, until the young person attained 16 years of age - section 88E subsection (1) of that Act appears to leave intact the rules of private international law.

Members may note that the age set for a child in this amendment is 12 years. There has been some debate as to whether the age should be 14 years. That is the reason, in fact, why proposed section 92EA subparagraph 5(b) is there. However, in view of the increasing evidence of consensual conduct above the age of 12 years, it is not our wish to criminalise that conduct prior to any informed community consultation on that subject. In other words, we are sure



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that the community could not possibly condone this activity below the age of 12 years. Some elements, however, may believe that there are social implications of further criminalising conduct in the context of continuing relationships between young adults and children above the age of 12 years.

There are, of course, other provisions of the Crimes Act - apart from this proposed amendment - that deal with these issues. Nevertheless, so far as this amendment is concerned, we are in the hands of the house and, if the will of the Assembly is to increase the age to 14 years, then we will certainly accept that amendment, although we do not put it forward at this stage prior to community exposure to this Bill. Mr Speaker, I commend the Bill to the house.

Debate (on motion by **Mr Connolly**) adjourned.

### **CRIMES (AMENDMENT) BILL (NO. 4) 1991**

**MR COLLAERY** (11.21): Mr Speaker, I present the Crimes (Amendment) Bill (No. 4) 1991. I move:

That this Bill be agreed to in principle.

Mr Speaker, in its recent report tabled in the Commonwealth Parliament by the Federal Attorney-General, Mr Duffy, on 11 September 1991, the Australian Law Reform Commission has provided Australians with a detailed report on censorship procedures. Among other things, the commission made clear that child pornography, which is already banned and which under the ACT legislation cannot be published, should be subjected to further legal controls.

In particular, the mere possession of the material should be an offence. We should all agree with that proposition. The mere existence of the cinematographic video or photographic reproduction of child pornography represents abuse in itself, and those who possess it aid and abet it. They cannot easily be brought to justice since, as I said, much of this material emanates in clandestine circuits.

Police data reveals that paedophiles commonly collect child pornography of the type which is banned. Networks exist in this country, with exchange of information, facilitating access and swapping. The range of magazines and underground code contacting is astounding. I am not going to compromise current police intelligence by revealing it all; but, at a superficial level, one can join a club at the moment by answering an advertisement in a well-known magazine. One would be given a confidential code number which could be used in correspondence to enable the placing of advertisements in the newsletter, which is used, at the second level, as a method of contact between paedophiles.

In our view, when the police seize this material, particularly from paedophiles, those paedophiles should be prosecuted for the possession of the material. They might wish, on the other hand, to assist the Director of Public Prosecutions and/or the police, who may wish to give them protection or even immunity for giving evidence to assist an inquiry into the source of this disgusting trade. The existence of an offence would then provide leverage for increased police vigilance and inquiries. We believe that this is a necessary early reform.

We believe that, on any commonsense basis, we should move quickly on this matter. We were already in the process of developing this reform when the ALRC report came down on 11 September 1991. I am pleased that this sustains the Rally's view, and I commend to the house the proposed new section 92NB of the Crimes Act.

On another note, the proposed new section 345A and amendments to sections 348 and 349 of the Crimes Act are designed to facilitate concerted action between the eight governing jurisdictions in Australia, apart from the Federal Government, in the application of the criminal law. While the optimum situation is, of course, a uniform criminal code, that historic task is presently with the Gibbs committee, where issues such as the principles relating to criminal responsibility are being slowly resolved between jurisdictions.

In the meantime, it would seem appropriate to attend to those issues of immediate community concern that are not likely to impede uniform moves. Accordingly, the proposed new section 345A of the Crimes Act provides that a person shall not aid, abet, counsel or procure, or, by act or omission, in any way, directly or indirectly, be knowingly concerned in or party to the commission of an offence under a law of a State or another Territory. A penalty of imprisonment for up to three years is applicable.

In drafting this provision, we have had regard to the fact that, while it may be entirely inappropriate in international law to punish the aiding and abetting of offences which are proscribed in another jurisdiction, this should not apply in the Australian Federation where our criminal sanctions are broadly compatible. Nevertheless, when reviewing section 19 of the Northern Territory Misuse of Drugs Act and section 59 of the New Zealand Crimes Act 1989, it became apparent that those provisions require the offence of aiding and abetting occurring in one jurisdiction to reflect a primary offence which itself is unlawful.

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In the ACT the sale and distribution of X-rated pornographic material is not unlawful. It is in other Australian States. Accordingly, the traditional provision, which requires that the act, if committed in the ACT, would be a crime under the ACT law, is not present. In other words, the purveyor of porn commits no offence in this Territory, provided it is within the guidelines set down by the Commonwealth. However, proposed section 345A seeks to make it an offence for that purveyor to aid and abet a breach of a ban elsewhere in Australia.

There have been considerable difficulties in drawing this provision, principally because the sale of the videos interstate would, in contract law, apparently take place in the ACT, where that act is not illegal. Only the delivery of the video occurs outside the jurisdiction, and delivery itself, particularly via Australia Post, cannot be stopped by State laws, with the exception of the provision in the Commonwealth Crimes Act 1914 which proscribes the use of Australia Post for the sending of objectionable material. That provision - section 89 of the Crimes Act - has not been invoked by the Commonwealth Government to deal with the porn trade; nor is it clear that this would have any effect, given the large network of private courier services which exist in our nation.

There has been considerable criticism of the ACT Government by State jurisdictions over the porn trade. Indeed, interstate banning laws presumably reflect a democratic vote and, accordingly, it is not appropriate for this Territory to undermine the will of our compatriot States, whether or not we agree with their taste. It is now open to the States, perhaps after some legislative amendments of their own, to deal with the possession and/or delivery of videos so as to create an offence, the aiding and abetting of a breach of which will, if this amendment before the house today is passed, become punishable in the Australian Capital Territory.

Porn video outlets in the ACT have extensive interstate mailing lists, and it would appear that the evidence would be easily obtainable once a complaint had been made of a breach of a State law. The onus would be on the Commonwealth to ensure that the Australian Federal Police pursue, with vigour, information supplied to the AFP by interstate enforcement agencies.

We remind members that it was Commonwealth legislation, on the eve of self-government, that effectively saddled the ACT with the X-rated industry and the incapacity to deal with it. The self-government Act excluded the ACT from having legislative power. In my view, there is considerable doubt about the constitutional legality of the current ACT publications control legislation. Hence my expressed view that the Stevenson amendment Bills, even if enacted, would have been found ultimately to be invalid.

Our community, through this Assembly, has been denied the right to classify films and thus any opportunity to find a compromise through an additional X category. The Commonwealth can now face the prospect of Federal police officers supporting State criminal laws by launching actions in this Territory. We commend this legislation to the house.

Debate (on motion by **Mr Connolly**) adjourned.

### **CRIMES (AMENDMENT) BILL (NO. 5) 1991**

**MR COLLAERY** (11.29): Mr Speaker, I present the Crimes (Amendment) Bill (No. 5) 1991. I move:

That this Bill be agreed to in principle.

I have long been concerned about police fingerprinting and photographing. In July 1979, I defended a well-known Canberra unionist who was fingerprinted, photographed and detained overnight because he had the temerity to argue with a taxi driver who had become lost about an extra 35c on the meter. My client was ultimately compensated.

It was my habit thereafter, as defence counsel, to ask all of my clients, particularly those charged with exceeding a prescribed concentration of alcohol, whether they had been fingerprinted and photographed. In the early years, they invariably were, despite the fact that they carried identification and many were well-known citizens. This situation began to improve at about the time I left practice in 1989. However, I pursued this issue as Attorney-General and ultimately requested the Australian Federal Police, on 16 January of this year, to revise their general instruction No. 27.

I expressed the view that persons were having their fingerprints recorded by police as a result of procedures set forth in the general instruction. I informed the police that I was disturbed that these persons were having their fingerprints included in a national automated fingerprint identification system - the acronym is NAFIS. I informed the police that the general instruction No. 27 implied that fingerprinting was a routine procedure and that the instruction, rather than section 353A subsection (3) of the Crimes Act 1900, governed the procedure.

I also pointed out to the police that the general instruction did not distinguish clearly enough between Commonwealth and Territory offences. Since that time, the Federal Government has introduced its own Federal Crimes (Investigation) Bill. That debate, of course, is taking its own course and I will make no further comment.

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The Bill before the house today sets in law the correct application of police powers. I am satisfied that in the vast majority of cases the police are not currently exceeding their powers. However, they are entitled to statutory backing for what they do and a community is entitled to be quite explicit in authorising the use of these invasive powers. I shall briefly review the situation to support the above contention.

There is no tradition in common law which says that a police officer cannot ask a detainee for his or her fingerprints or photograph. If the detainee consents, the police officer can then proceed and there is no requirement to caution a person. This view has been confirmed by the High Court in *Carr v. the Queen*, reported in volume 127 of the *Commonwealth Law Reports* at page 662. That was a 1973 decision. Section 353A subsection (3) of the Crimes Act, in its application in the ACT, provides:

When a person is in lawful custody for any offence punishable on indictment or summary conviction, the officer in charge of police at the station where he or she is so in custody may take or cause to be taken all such particulars as may be deemed necessary for the identification of such persons including her or his photograph or fingerprints.

There was a series of cases relating to this issue in the 1970s in this Territory. Some, such as the case in which I participated in 1979, were widely publicised. Briefly, His Honour Mr Justice Fox held in *Sernack v. McTavish* in 1970, reported in 15 *Federal Law Reports* at page 381, that a police general instruction which was the forerunner of general instruction No. 27 was unlawful because it required officers to record detainees' fingerprints as a matter of routine. His Honour held that the Crimes Act conferred a discretion which had to be exercised on a case by case basis by the officer in charge of the police station.

In 1980, His Honour Mr Justice Connor indicated that he favoured the views of His Honour Mr Justice Fox and that the word "identification" included establishing who the person is, not simply recording that they were there. Despite the decision in *Sernack*, general instruction No. 27, as I found it as Attorney-General, still implied that fingerprinting was routine. The actual words were as follows:

- a. Where a person is in lawful custody for an offence, the Officer in Charge of a Police Station shall decide if the person should be fingerprinted;
- b. the Officer in Charge of a Police Station shall supervise the watchhouse staff and obtain the fingerprints of a person in lawful custody;

c. the fingerprints of a person in lawful custody shall be taken as soon as practicable.

It stated further:

Females shall only be fingerprinted by a female member.

... ..

Juvenile offenders may be fingerprinted where they are over the age of 14 years and have been arrested and charged with a criminal offence.

In my view, the instructions, in the way they read, should be quite explicit; that is, that photographs and fingerprints should be taken only for purposes of identification, and, if a person has alternative identification available or is otherwise vouched for or known and is not suspected of the commission of any other offence, no-one should decide that they should be fingerprinted. In other words, the police general instruction did not adequately stress that there was a discretion that had to be exercised on a case by case basis.

The amendment now before the house clarifies the law and makes it quite clear that the process can take place only if the police officer in charge of the station is satisfied that it is necessary for the identification of a person for the purpose of any investigation or proceedings that may be instituted in respect of the offence for which the person is in lawful custody or another offence that the person is suspected on reasonable grounds of having committed. The provision also goes on to reflect the current New South Wales law - it is not currently applicable here - which does not authorise the taking of fingerprints, palmprints or handprints or a photograph of a child under the age of 14 years.

I should stress, in fairness to the police, that their general instruction reflects New South Wales law, but they do not have a law to back that up. This provision clarifies the law both for the community and for the police. In one sense, it is an advance in civil liberties. In another, it will put an end to the recurrent court cases in this town where issues of police procedure sometimes overshadow the real issue. In other words, a person who should not have the community's esteem gains credibility because he or she has won a technical point over the police through misread procedures.

I trust that this amendment Bill will be passed quickly and will have the support of all members of this house. I commend the Bill to the house.

Debate (on motion by **Mr Connolly**) adjourned.

**CRIMES (AMENDMENT) BILL (NO. 6) 1991**

**MR COLLAERY:** Mr Speaker, pursuant to standing order 128, I fix the next day of sitting for the presentation of this Bill.

**LITTER (AMENDMENT) BILL 1991**

**MR JENSEN (11.36):** Mr Speaker, I present the Litter (Amendment) Bill 1991. I move:

That this Bill be agreed to in principle.

Mr Speaker, recent incidents reported in the media have strengthened the long held resolve of the Residents Rally to have those responsible for putting public safety at risk pay an appropriate penalty for such irresponsible actions. It is not just the media events of the last couple of months that have encouraged this; it has been a personal concern of mine over a number of years. The Rally has decided to introduce this small but very important amendment today because of the number of complaints raised with the Rally about the amount of glass found on bike paths, in our public parks and playgrounds, as well as around shopping centres - effectively, public places.

Anyone who has participated in one of the clean-up campaigns over recent years will be fully aware of the potential damage to life and limb by some of the material left lying around. I recall, for example, attending a clean-up run by a service club at the Pine Island swimming area, and I can assure members that the amount of glass lying around was considerable. Much of it was broken and in a dangerous state. Pine Island, as we all know, is an area which by its very nature attracts children and adults, who often use the area without substantial foot protection, particularly during the summer.

Much of the broken glass comes from beer bottles, especially stubbies. Areas like this are often locations where some of our young people, often stressed by the lack of opportunities and long-term prospects for employment, resort to substance abuse. Alcohol, as we all know, is a drug, and it can cause difficulties and problems, particularly for young people.

The Bill that I have presented today, very simply, amends the existing section on penalties for littering - section 3 - by replacing it with a new section 3, which provides for a penalty of \$2,000 if the litter is likely to cause injury to persons or damage to property. The current standard fine for littering is retained at \$250. However, I understand that the Government, in keeping with the proposals for the upgrading of litter legislation by the

Alliance Government, will be seeking to increase penalties further during its own review of that legislation. We look forward with interest to these proposals and expect that the Government will ensure that the penalty for what our amendment Bill describes as "aggravated littering" will increase accordingly.

I understand that the current maximum penalty, of \$2,000, is set for people who dump dangerous items, such as old freezers and refrigerators, outside recognised land fills. Tragedies have occurred when young people have become trapped and suffocated when playing in what to them was an exciting hiding place. Hence the reason for the fine. I would suggest that the Government might consider increasing that fine when it reviews its legislation.

The question of penalties brings me to another issue, which was raised while I was doing research for the amendment Bill. It has always been my view that those responsible for littering the countryside, or vandalising public property, should be required to clean up, replant or look after park areas they have defaced or vandalised.

However, it would seem that there are some legal complications with this proposal, because Part XVA of the ACT Crimes Act says that the community service order scheme can be applied only to those over 18, and then only when the punishment for the offence is a gaol sentence. The order is, therefore, issued as an alternative to imprisonment - a proposal, of course, which is fully supported by the Rally. I know that my colleague Mr Collaery, when he was Attorney-General, fought hard to reduce the number of young people being required to enter institutions in New South Wales.

It would therefore be necessary to have the Crimes Act amended, and I have taken the liberty of writing to the Chief Magistrate, Mr Ron Cahill, seeking his comments on this suggestion. In terms of implementing similar orders for juveniles, we were advised that section 47 of the ACT Children's Services Act 1986 allows for magistrates to impose an attendance centre order.

This order may require a child to engage in such work as the Director of Welfare considers necessary and in the best interests of the child. While supervision and possible danger to the young offenders could be a problem, what could be more in the interests of a young person than to be reminded, in a very practical way, of the impact that their actions have on the environment and the safety of others? I am sure that the problems that have been suggested are not insurmountable.

Once we receive the comments on both these proposals and the community service orders, the Rally will seek to have amendments finalised which will further strengthen the "polluter cleans up" ethic that the community is now demanding from those who seem to have an urgent need, for



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whatever reason, to pollute our public places with dangerous rubbish. Naturally, the Rally will be expecting the full support of members, not only to bring the Bill back to the Assembly but also to allow it a speedy passage.

Before leaving the issue of glass, it would seem to me that, with changes in packaging from glass to aluminium and to PET plastics for soft drink and other non-alcoholic beverages, a large amount of potential for glass to wind up in public places has been removed. Hence the predominance of glass stubbie beer bottles in the litter stream. I know that there are some who consider that nothing beats a beer out of a bottle, as opposed to an aluminium can. I happen to prefer a draught beer myself, if I have a choice.

It would seem that, while certain elements in our community are not able to take their community responsibilities seriously, the community and the packaging industry may well have to work together to remove what, after all, is a very dangerous item from the litter stream.

I know that there will be many who say, "Bring back the deposit". Certainly, that was one way that many people - many, I am sure, in this place - earned additional pocket money. However, the ACT is an island, surrounded by New South Wales, which has a far greater market and far more production centres. South Australia has deposit legislation. There are many who see the costs of storage and transport, both to the retailer and, indirectly, to the community or consumer, as a problem.

There is also the potential for environmental problems as the detergents used to wash bottles for reuse are often not friendly to the natural environment. However, the Rally is sure that the community and the packaging industry will have to work together to find alternatives to potential litter streams that pose a hazard to the wider community. It may well be that in the future we will have glass-like products that do not pose the same hazards. But I suspect that, if that does not happen - and if we see more stories such as the one in the Tuggeranong *Valley View* this week - community pressure will eventually demand that glass products used for alcoholic beverages, particularly beer, be banned.

Before closing, I would like to briefly comment on other items in the litter stream which will fall within the provisions of the Bill. I am referring, of course, to needles which have become an unfortunate part of our modern culture. Danger from hepatitis and the HIV virus - the latter is less virulent than hepatitis out in the open air - is ever present in some parks.

Members may recall my concerns, expressed some time ago, about the installation of a needle deposit container in the new toilet block at the Fadden Pines regional park. This was not because I objected to the proposal for such an installation but because of the area that it was proposed

for. It was considered by many that it would encourage the use of drugs by virtue of its being in an area frequented by children. I am still concerned about this issue, but at least it would be possible to remind those who seek to add that form of dangerous litter to the litter stream to be aware of the proposals for increased penalties.

I also note that, in section 4 of the parent Act, a fine of \$250 is provided for a person who fails to properly secure household rubbish, garden refuse or commercial waste. Anyone who travels to work on a Monday morning on the route that goes past the dump, as I do, will know that many people are failing to comply with that requirement. I hope that, when the new legislation is brought forward, the Government will make sure that heavy penalties are provided, and appropriate supervision of those areas, for those who fail to comply with their civic duty.

Might I make a comment here on a case that we heard of recently where a plastic bag, which blew off a trailer, caused a motorcyclist to lose control of the machine. Fortunately, there was not a tragedy, but such negligence could be expected to come within the provisions of this amendment.

I am sure that all members of the Assembly will support this move, and I trust, as I said before, that it will be brought forward for finalisation very quickly so that we can put some teeth into the attempt to clean up the litter in our public places. Hopefully, serious injury, disfigurement and possible disablement of an innocent victim will then be prevented. With these final sobering thoughts in mind, I commend the Bill to the house and close with my sincere thanks to those in the Parliamentary Counsel's Office who worked so hard to ensure that the Bill was ready for the last session. Unfortunately, we were unable to introduce it, for reasons beyond our control.

Debate (on motion by **Mr Connolly**) adjourned.

#### **UNIT TITLES (AMENDMENT) BILL 1991**

**MR JENSEN** (11.48): I present the Unit Titles (Amendment) Bill 1991. I move:

That this Bill be agreed to in principle.

This is not the first time that this legislation has been before the house. Members may recall that it was actually tabled back in 1989 and then subsequently withdrawn. This was because, at the time, we believed that the Unit Titles Act was going to undergo considerable amendment. But it would appear that the planning legislation has caused a delay in that regard, and the Rally believes that it is important for this small but very critical amendment to the Unit Titles Act to be put in place as soon as possible.

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We believe that there is an obvious need for this legislation as potential heritage properties are demolished because of current restrictions in the unit titles legislation which allow for the holder of a Crown lease to issue only a minimum of four unit or strata titles. In these sorts of circumstances, when lessees of a Crown lease seek to redevelop or refocus their living within their existing suburb, they do it for a couple of reasons. Their first aim is generally to achieve a newer but smaller residence. They do not need the four- or five-bedroom house that they have lived in with their family for many years.

They also wish to obtain some funds to ensure that they are able to live in reasonable comfort in their retirement - because, effectively, that is the only asset that many of these families have. So, that is generally the aim when these issues come forward. For example, the house at Darling Street, Barton - an issue which arose, members may recall, just before the last election - could have been saved if the minimum number of unit titles had been three, and the owners would have achieved the aims that I just outlined.

Let me explain what I mean in that case. At the time, a very eminent and prize-winning heritage architect provided to the owners of the property a proposal that would have allowed the property to be expanded and divided into three separate units, achieving all the aims that I have indicated. However, the Unit Titles Act, as it applied then and still applies now, did not allow this to be achieved. So, as a result of that, the house was demolished and four units were built; and, as we all recall, there were some problems with the design and siting and the builder had to make some changes and demolitions to bring it into line with design and siting requirements. So, that house and its location could have been saved if this legislation had been in force.

There is a need for an upgrading of dual occupancy home construction, I would suggest, as separate unit titles would encourage better use of large blocks by offering greater incentives to upgrade and build a better class of dwelling, which the current requirements do not encourage. How often do we see demountables going into the backyards of homes in some of our suburbs, as opposed to a more effective redevelopment or addition in accordance with the dual occupancy design and siting guidelines?

I would suggest that an ability to provide for a smaller number of separate unit titles would encourage better use of large blocks by offering greater incentives to upgrade and produce a better dwelling. As we know - and many of us have spoken about this on various platforms over a long period - there is also a need for urban consolidation without affecting our green space. At the moment, dual occupancy is the only tool that can be used for that, as

draft urban consolidation proposals were dropped, following considerable community pressure, prior to self-government. I would suggest that the new Territory Plan, which is about to hit the streets, will bring on this debate once more.

**Mr Wood:** Draft Territory Plan.

**MR JENSEN:** I meant to say "draft", Mr Wood. I note the distinction and I can understand why you want to make it. I acknowledge that it is a draft plan, and it is certainly up to the community to make its views known, not only on specific components within that plan but also on the various principles and guidelines which I understand will be identified within that plan. That, I guess, is going to be the critical issue in relation to urban consolidation and the need for the development of what people see as a more sustainable Canberra, to enable us to better utilise our existing infrastructure and facilities, without having to go down the expensive path of "green field" developments. Such developments are expensive in more ways than one - not just in terms of the environment but also in terms of the dollars and cents that are required for that infrastructure, a cost that will eventually be required to be passed on to people in the future.

In relation to dual occupancy policies, the argument has been raised that single titles would affect the maintenance of the character of residential streets. In fact, that is one of the comments raised in "Planning Policies for Dual Occupancy of Detached House Blocks", dated February 1986. It is a National Capital Development Commission plan that, on 31 January 1989, effectively became part of the Territory Plan, and I expect that some of this will be included in the new draft documents that we will be seeing soon.

Page 2 of that document specifically indicated that:

... a dual occupancy development remains on the original block and is not separately titled.

This is because:

- single titles will assist in the maintenance of the character of residential leases;
- single titles will encourage the provision of rental accommodation;
- subdivision in many cases would produce small awkward blocks and thereby difficulties with services and utilities;
- subdivision would encourage the different treatment of the two dwellings in design terms;
- later redevelopment of the area may require land assembly and would be impeded by premature block fragmentation.

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Might I suggest that the same sort of problems could be cited to argue against the policies that are currently operating for the development of aged persons units throughout the ACT, because, effectively, the same principles apply. And separate titles are available, in respect of both the Housing Trust and commercial aged persons units that are being developed. Anyone who drives along Yamba Drive to and from work passes one each day. So, might I suggest that that is not a major problem.

There is, of course, a need to develop planning, design and siting criteria to avoid the free-for-all that is implied in this NCDC draft document. The current dual occupancy requirements, I would suggest, provide a suitable model. I will be interested to see how that is reflected in the draft - repeat, draft - Territory Plan, which will be subject to consultation.

The Bill will provide a welcome option to the aged, who often go to live with relatives after selling up and distributing their assets. With this amendment, aged relatives may more easily secure a title to the place where they live, next to their relatives.

We believe that this amendment will work towards strengthening the extended family, by encouraging the aged when they wish to remain in the house that they have spent so much time in. A house that can be titled to allow someone else to live there, without forcing more dense and communal development, is to be encouraged. Consequently, we commend the Bill to the house. It may reduce neighbourhood disputes over claims of overdevelopment.

Debate (on motion by **Mr Wood**) adjourned.

#### **POSTPONEMENT OF NOTICES**

Motion (by **Mr Humphries**), by leave, agreed to:

That notices Nos 11 to 15, private members' business, be postponed until the next day of sitting.

**HOSPITAL BED NUMBERS - SELECT COMMITTEE  
Appointment**

**MR HUMPHRIES** (11.57): Mr Speaker, I move:

That -

- (1) a select committee be appointed to inquire into the Government's proposed reduction in bed numbers in the Territory's hospital system and to inquire into and report on the consequences of this proposal with particular reference to
  - (a) the impact on the quality of patient care;
  - (b) the impact on available hospital bed numbers;
  - (c) the impact on hospital waiting lists;
  - (d) the public/private hospital bed mix;
  - (e) the appropriate level of bed availability for 1991-92 in public and private hospitals; and
  - (f) the need to cut health expenditure;
- (2) the committee shall report by 12 December 1991;
- (3) the committee shall consist of three members;
- (4) the majority of members constitutes a quorum of the committee; and
- (5) the committee be provided with necessary additional staff, facilities and resources.

I will speak very briefly to this motion, because I would hope that we could conclude debate on it before we rise at 12.30 pm. Of course, health remains a concern to the entire Assembly, and indeed to the whole community, as it has for some considerable time.

The headlines that I read out yesterday in the discussion on the matter of public importance, I think, spoke eloquently for that. The special concern, of course, of this Assembly, and I hope of the Government, is hospital financing. It would be an understatement to say that it remains a matter of some concern, and indeed some danger, to this and future governments.

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I might remind the Assembly about the history of this matter and the concerns that it has given the Assembly over recent times. Of course, last year, for the second year running, a serious budget blow-out was experienced in the hospital budget. That budget blow-out, last year at least, was very largely attributable to the fact that the budget base for 1990-91 was simply too small for the number of activities which were sought to be carried out throughout that financial year. The Treasury report made it perfectly clear that that was the case; that there was a serious problem with the amount of dollars that had been attributed to that budget in order to do those tasks in that amount of time.

I know that the Government is very concerned to stop this motion, if it can, and it will be doing its best, of course, to do that. But government members might consider the advantages that might accrue to the Government if they are able to get to the bottom of a longstanding problem. Of course, Mr Berry has been very careful in the last few days not to pretend that he has the solutions to the budget problem at all at this stage; that "there are still many hurdles to be overcome" - I think that was the phrase he used - before that problem is behind us. I hope that this motion today will assist the Government in overcoming those hurdles.

In the context of a budget blow-out of some \$17m, in large part because of a budget base that was too small, we have, in this year's health budget, brought down a few weeks ago, a budget base which has been, in fact, reduced by some 8 per cent. On top of that, we have clear signs, in the September figures released yesterday by the Minister, to show that receipts for 1991-92 are down on last year.

In other words, the total expenditure for the year is reduced; but, by the same token, there is a reduction in the amount of revenue the Government is collecting to balance its needs throughout 1991-92; and so far, although I do not have that in percentage terms, it is in the order of \$118,000 for the first three months of 1991-92. The September budget figures produced by the Minister yesterday would, I think, give anybody who read them carefully some considerable basis for concern.

I quote the statement with respect to public and community health for this first quarter:

While other operating expenditure is showing as favourable, there are delays in the processing of some accounts associated with the implementation of the new accounts processing system.

That is a matter of some concern to me. I do not know what that means, I do not know how far it goes, and I think we all have some very great basis for concern about those figures. So, we have a generally murky picture with regard to funding generally.

On top of that, we have the Government asserting that it can contain budget expenditure and reduce levels of use - that is, hospital bed days - quite considerably, on last year's figures, on one premise. And that one premise is that it can dramatically reduce bed numbers in the ACT public hospital system. Let us put to one side the question of whether that is good or bad for the hospital system. Mr Berry was saying last year that it is bad, but now he appears to think that it is good. We will put that to one side.

The fundamental question is: Can the Government do that? Can the Government succeed in reining in expenditure, as far as it needs to rein it in, by this device of reducing bed numbers in our public hospitals? There are also other questions surrounding that issue. For example, how many beds are we going to lose as a result of this process? When will we lose those beds? What effect will it have on flow-through? What sorts of areas will be affected by this reduction? These were the sorts of questions that were asked last week in the Estimates Committee and they are, I regret to say, matters that are substantially unanswered. We must know what the answers to those questions are if we are to avoid the quite damaging and debilitating process of a further budget blow-out in this financial year.

I believe that this motion is extremely important and I commend it to the house. It is not good enough to say, as the Minister has said in answer to difficult questions in the Estimates Committee, "The board will fix it. I am confident that the board can manage with this budget". Somehow the board will see it through". That is not good enough. The board does not set its own budget; the Government does. The Government has predicated this on a significant reduction in bed numbers. We need to know what that situation is.

There is a precedent, of course, for this kind of measure. Last year we had a very important committee inquiry into the Priorities Review Board process. That was the Assembly, in a broader sense, scrutinising what the Government was doing with its budget process. I think, by the same token, that we have some right to insist now that, with this very difficult area of health and health financing, we have similar scrutiny going on. I commend this motion to the house.

**MR BERRY** (Minister for Health and Minister for Sport) (12.04): This move by Mr Humphries is nothing more than an expensive diversion - a stunt. Mr Humphries has got it wrong from the outset. Quite aside from the dramatic turnaround about the establishment of committees to look at these things in such a short period of time, which my colleague will deal with later, I have to say that the motion itself is all wrong from the outset - and Mr Humphries knows it. That is the cruel truth of this debate.



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He proposes that "a select committee be appointed to inquire into the Government's proposed reduction in bed numbers". The Government does not have any proposed reduction in bed numbers, and Mr Humphries knows it. As a member of the Estimates Committee, he was provided with full information on the present situation in relation to the management of our hospital system. He knows that. What he is trying to do is to divert attention from the truth of the matter. He was supplied, along with other Estimates Committee members, with a full strategy, which has been provided by the Board of Health, for dealing with hospital bed numbers in our hospitals.

If Mr Humphries was being truthful about this process, his motion should really read: "That a select committee be appointed to inquire into the Board of Health's proposed reduction in bed numbers in the Territory". But then, again, the Board of Health has made it clear that there are a number of options that it is considering at the moment, so perhaps it should read: "... proposed options for reductions in bed numbers in our public hospital system". At the same time, it might also mention that it might inquire into what is going on in the negotiations between all of the players in the hospital system to ensure that we have a more efficient hospital system and more efficient financial management. There is none of that.

This is just a stunt - nothing more than that. It is not about a reasonable inquiry into what is going on in the hospital system at all. It is no more than a political stunt. He has roped other members of the Assembly into the same belief. It is a complete and utter waste of time, because, while all of this is going on, the Board of Health will be managing within the health budget. That is what it will be doing. It will be getting on with the job and ignoring this committee, because if it does not get on with the job, of course, our hospital system will fall into another hole. Maybe the hidden agenda is to cause it to fall into another hole.

We have in front of us a motion that has been moved by the discredited former Minister for Health - the Minister who left the hospital system a smoking ruin. This man has been responsible for all that happened in the hospital system over his period as Minister. Let us not forget that this Minister did not bother to rake up the figures on what was going on in his hospital system. Of course, he is very eager to criticise this Government for doing it and he is criticising the figures, but this Government got out there and did it. We are producing the figures, and we will keep monitoring what is going on in our health system, and we will manage it with a tight rein.

The Board of Health is responsible for the management of the hospital system and it will continue to be so. This committee proposal seems to set out to cut across the board's management of the hospital system. Let us not

forget that the Board of Health, set up by the former Minister, has an Ethics Committee, and I am sure that the considerations of the Ethics Committee would cut across some of the terms of reference mentioned in the motion. It has a Health Care and Complaints Committee. I wonder whether that cuts across the - - -

**Mr Humphries:** Rubbish!

**MR BERRY:** Your proposed terms of reference mention the impact on the quality of patient care, and the Board of Health has a Health Care and Complaints Committee. What do you want to do - overtake that role? There is the Finance and Audit Committee in the Board of Health's management area, the Hospital Redevelopment Committee, the Research and Education Committee, and the Resources and Services Development Committee - and you are going to try to do the work proposed for this committee by 1 December. This is grandstanding in the extreme - no more than that.

The facts are that this Government has bravely taken the health budget in the ACT in hand and that we intend to make the hospitals work more efficiently. We also intend to keep our finger on the pulse - something that the former Minister was unable to achieve. Whilst I, personally, still have some reservations about financial management in our hospitals, we intend to provide the resources necessary for the hospitals to improve their own situation. We have done that. We have provided \$385,000 for the further development of the Fiscal system, and I will be visiting Woden Valley Hospital today to see how developments are going in that respect. It is important that we get on with the job and do not just talk about it.

We know that financial management in our hospital system is an important political issue and, of course, we have to ensure that we are focused on it - and we are. At the end of the day, Mr Humphries, your committee will achieve nothing. The terms of reference assume, of course, that bed numbers are the only indicator of consequence to issues of quality of patient care and waiting lists. This, of course, is patent nonsense. You ought to know that.

**Mr Moore:** You used to tell him that all the time last year.

**MR BERRY:** Mr Moore chuckles behind me, as he often does. Mr Moore obviously does not understand it either. But Mr Moore, hungry for issues, of course, is keen to get on this one as well. You and Mr Humphries will have to get a big pushbike, because there will be a lot of you trying to ride on this one - and there is nothing in it, I can tell you. If you are to reasonably investigate what goes on in the hospital system, it will take you a month of Sundays - not just a few weeks - and you will not be here to deliver the report.

**Mr Humphries:** We are sensitive about this, aren't we?

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**MR BERRY:** No. 5 on the Liberal ticket - a bit touchy, I would suggest. I would not borrow for a house on the strength of it.

We must take into account the latest national health strategy report on hospital services. It states that operating costs are related to several activity indicators, such as the number of admissions, occupied bed days, the proportion of surgical admissions, case-mix, the number of investigations and so on. The whole issue is complex and needs considerable management skill. Bed numbers and waiting lists are not even mentioned in the national health strategy report on hospital services.

You should read these reports before you put together your terms of reference. It shows that you still have no knowledge about the way that hospitals operate. It shows that you still do not know how budgets should be managed in the hospital system. Mr Humphries, I suggest to you that you should have learned from your period in office, but it appears that you have not.

Let us look at the proposed terms of reference. They mention the impact on the quality of patient care. The quality of patient care in ACT hospitals is not determined by bed numbers; it cannot be determined by bed numbers. You can have a 1,000-bed hospital providing a poor standard of care. A hospital's quality of care is determined by its staff, their dedication, skills and training, an appropriate level of staffing to support the number and type of patients being seen, the infrastructure and equipment available to it and its financial management. Of course, quality assurance programs are being used at Woden Valley to monitor and measure the quality of clinical services, including the impact of any changes. Of course, that refers to the hospital redevelopment program. You do not want to reinvestigate that. You might uncover a few things that embarrass you.

Let us talk a little more about fast tracking. There could be a few little embarrassing things there. You would not want to do that. In terms of the impact on available hospital beds, the ACT Board of Health has advised me - and remember, Mr Humphries, that these are the people who are managing the place, under your Health Services Act - that it has a number of options that it will take into consideration when assessing the need to reduce available beds. These options concern budgetary performance - - -

**Mr Jensen:** In accordance with your budget.

**MR BERRY:** Mr Humphries does not talk about inquiring into the Government's budget. He has the opportunity to do that in the Estimates Committee hearings, and I have to say that he is not doing a very good job at all.

**Mr Kaine:** He is not getting too many answers, either.

**MR BERRY:** The fact that the answers do not please Mr Humphries does not mean that the Government is not doing well. We are doing well; we are producing the figures and we are producing the goods.

**Mr Jensen:** Give us July's, Wayne.

**MR BERRY:** Mr Jensen mumbles about figures over there, and he was complaining this morning that the committee had not received the figures for September. Be patient. You will get them. It is important that the community gets them. The community will get them. You will have them tonight. Do not worry about it.

**Mr Jensen:** We were told that we were going to get them last week, weren't we, Mr Moore?

**MR SPEAKER:** Order! Relevance please, Mr Berry.

**MR BERRY:** Well, keep these people off my back, Mr Speaker. Other important things for the board to consider are the development of more efficient admission and discharge practices, as well as the continued underlying decline of length of stay. There is also clinical demand, which will vary throughout the year, particularly the demand for elective surgery over the Christmas-New Year period - and I suspect that you will be busy doing other things then - and the increase in paediatric cases over winter.

**Mr Humphries:** Like what?

**Mr Kaine:** Beating the pants off Labor at the election.

**MR BERRY:** Well, try as you might. I mention also the need for the board to maintain control over activity levels, where there is some discretion to do so. This all involves a management strategy that runs for a full financial year, not until the next election. It runs for the full financial year.

It is interesting that the committee is going to 12 December. At the end of the day, you will never get to a position where you will be able to do anything about the report, anyway. The latter point - -

-

**Mr Humphries:** I see. You are going to block it, are you?

**MR BERRY:** No. This latter point about the need for the board to maintain control over activity levels is an unfortunate fact of life in all public hospital systems, including the New South Wales system - which, you will remember, is run by a Liberal Government and which you have in the past used as a model. We can see what is going on in New South Wales right now, and we can see how it has sort of flowed over into the ACT.

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But, at the end of the day, we have to ensure that we have a better hospital system. Mr Humphries is not interested in that. He does not say "with the aim of improving the hospital system". It is a cheap political stunt. I have already provided to the ACT community the Board of Health's management strategy on beds. I have also provided the Estimates Committee with the current best estimates of projected bed numbers at 1 December 1991. These are: Woden Valley Hospital, 641 to 673; Calvary, 174; QEII, 13 - making a total of 828 to 860.

Mr Humphries knows all of that information. He also knows how many beds there were in his period of office. Though he claims that there were 930, had he chosen then to look up the figures, he would have found that that varied from something like 744 beds to 900. All of this information is freely available; it is not anything that is a big secret. But it is not of any great political import, either.

The final number of available beds in the public hospital system will be in the range of 828 to 860. No further information will be available until some time after the amalgamation of the two hospitals, on 27 November. If you reckon that you can get to the bottom of things before 27 November, good on you - but you are not going to get there. You are just not in the race. This whole process is a joke.

The Board of Health is quite appropriately moving on a course to manage the Government's budget. It is doing its best within a tight framework. It is a finely tuned budget; that was deliberate. But we have to have a sensible approach to hospital management. The Board of Health should be left alone to get on with it. This is no more than a political stunt. Mr Humphries, it is about time that you gave up on this score; and, as for other members of this Assembly, I think it would be more appropriate if they got off the band wagon and exercised themselves in the Estimates Committee, where they can ask all the questions they like - and I will handle the answers.

**MR KAINE** (Leader of the Opposition) (12.19): Mr Berry is on the run; there is no doubt about it. He is now being asked to put his money where his mouth has been for the last 2 years - and he is on the run. He talks about asking people to get off his back. Very shortly, he is going to have 170,000-odd voters on his back, because they are going to see how hollow all of his rhetoric was for the last 17 months while we were in government. His recent statement that he did not really mean any of that and that it was just politicking will really be shown to be true.

Of course, Mr Berry does not want anybody looking into his hospital management. Naturally, he does not, because it is already starting to crumble. He put out a media release saying, "Good news on the Health Budget". There is not any good news in there.

**Mr Berry:** It is a lot better news than no news from you lot.

**MR KAINE:** There is no good news in there. It is hedged about with qualifications and maybes and a "one of these days we will be able to tell you" sort of approach. And Mr Berry claims that this is good news. There is no good news in it, as far as I am concerned.

But I think the classic part of Mr Berry's defence on this issue is his handing over total liability to his Health Board - "we totally divorce ourselves from this talk about reducing bed numbers". It is quite interesting that the first person who spoke publicly about the reduction of beds in the hospital system was the Chief Minister and Treasurer. That is where the first hint came from that there was going to be a reduction in bed numbers.

It did not come from the hospitals board; it did not come even from the Minister himself. It came from the Chief Minister and Treasurer. Of course, when asked about that, the Minister for Health said, "Well, it is a tricky business". He is showing how tricky a business it is. He will squirm and twist and turn and avoid any action taken by this Assembly or anybody else to find out how badly he is administering the health budget and the health system.

It simply is not good enough for him to say, "Everything is okay because we have told the Health Board and it is going to fix it". It is the Government's responsibility. As Mr Humphries has pointed out, it is the Government that determined the health budget. It is the Government that put the screws on the Health Board to try to manage the system with a reduction in excess of 8 per cent in its budget. I am not saying that there should not have been a reduction; quite clearly, there have to be reductions in budgets across the board. But this one seems to be a particularly savage one, unmatched anywhere else in the whole ACT Government Service. So, this Government and this Minister have imposed on the Health Board a burden which is quite difficult, in my view, for it to respond to.

We constantly hear from the Minister talk about the Estimates Committee. We have tried to get answers from the Minister in question time, week after week. We have tried to get answers from the Minister in the Estimates Committee hearings - and we do not get any response. He cannot deny that there is an intention on the part of this Government to reduce the number of beds in our public hospital system. He has acknowledged it and his Chief Minister has acknowledged it. He cannot now hand that over to the board and say, "It is your problem; you respond to this".

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The Minister tried to suggest that the inquiry that Mr Humphries is asking for is intended to span the whole spectrum of the ACT Government Service and the whole health delivery system, but that is not what Mr Humphries is talking about. He is talking about a specific point. The specific thing that he wants this committee to look into is the reduction in bed numbers and the consequences of that reduction in bed numbers. The Minister can talk about all of the other things that impact on that. Of course there are other things that impact on the quality of health delivery, but the cut in bed numbers is a very deliberate act on the part of the Government and it must inevitably have consequences.

We can have all the nurses and all the resources in the world; but, if we do not have enough beds to accommodate the patients that front up for surgery and other health care, then it is nonsense to say that the number of beds is irrelevant in determining the quality of the health service. It is just as important as the other factors that the Minister mentioned. The Minister has not yet admitted that there are reductions in those other elements that he talked about. He has not admitted that there is going to be a reduction in the number of nurses in the system, for example, although the indications now are that there will be a reduction in the number of nurses delivering services in the wards in our hospitals.

I have not heard him come out and say that yet, but the suggestion is there. I suppose we could ask a committee to look into the consequences of reducing the number of nurses in our nursing service. That is not what Mr Humphries is proposing. So, that is another factor in the equation. And, just quietly, when this one is finished, if we determine in the course of the investigation that the reduction in the number of nurses in the system is going to have a significant effect too, we may even want to inquire into that. That is another one that the Minister will duck from and run away from, and blame the board and everybody else for.

The fact is that every time you ask this Government for numbers it ducks for cover and gives you rubbery numbers. If you do not believe me, go and talk to the Trades and Labour Council and the Public Sector Union about staff reductions, because they cannot find out from this Government what the staff reductions are going to be. They range from the 250 that the Chief Minister talked about to the 520 that show in the budget papers - or even to 700 if we take note of the number that I heard a trade union official cite the other day.

If they do not know and we do not know, does anybody know? And the rest of the numbers are just as rubbery. The fact is that, if you really want to know, it is no good asking this Minister; it is no good asking this Government. The only way this Assembly, the community, the trade unions and everybody else will find out the consequences of a decision like this - a conscious decision - is to have an inquiry.

The Minister says that that cannot be done by 12 December. Mr Enfield carried out a very comprehensive inquiry into the financial problems of the hospital system, and he did not have all year to do it. He did it in a very short period of time, and he came up with some very sound conclusions and recommendations. We were putting those recommendations into effect, and I accept that this Government has picked them up and pursued them. That is why it is spending \$385,000 on upgrading Fiscal. We found out what the problem was and we took steps to rectify it, and the flow-on of that into this year is the need to upgrade Fiscal, with a \$385,000 tag. This Government would not have dared to set that aside and say, "We are not going to upgrade the Fiscal management system". It had to pick that up. It was one of the things that it could not shirk and had to face up to.

I have had enough of the ducking and weaving of the Minister, who tries to avoid every question, who will not give us the answers to any questions, and who produces rubbery figures - and the ones he gives us today will be different from the ones he gave us yesterday and the ones he will give us tomorrow. Mr Humphries is absolutely right. We need to know, and the community needs to know, the end result of this deliberate decision, not by the hospital board but by the Government, to reduce the number of beds in our public hospital system. The only way to do that is to have an independent inquiry, and I support Mr Humphries' motion that such a committee be convened.

**DR KINLOCH (12.28):** There is a strong benefit to the community in making effective use of our committee system - - -

Motion (by **Mr Stefaniak**) put:

That the question be now put.

The Assembly voted -

*AYES, 9*

Mr Collaery  
Mr Duby  
Mr Humphries  
Mr Jensen  
Mr Kaine  
Dr Kinloch  
Ms Maher  
Mr Prowse  
Mr Stefaniak

*NOES, 7*

Mr Berry  
Mr Connolly  
Ms Follett  
Mrs Grassby  
Mr Moore  
Mrs Nolan  
Mr Wood

Question so resolved in the affirmative.

**MR SPEAKER:** Order! Members, it being past 12.30 pm, the debate is interrupted in accordance with standing order 77, as amended by temporary orders.



## SUSPENSION OF STANDING AND TEMPORARY ORDERS

Motion (by **Mr Stefaniak**) proposed:

That so much of standing and temporary orders be suspended as would prevent consideration of notice No. 16, private members' business, being finalised.

**MR BERRY** (Deputy Chief Minister) (12.34): This is absolutely crazy. They just moved the gag on consideration of this matter. I see that Dr Kinloch supported the gag on himself, and now we move to extend the sitting to consider the matter further. It is beyond any sort of common sense. The issue was gagged, but it ought to have been left open for further debate. The Government was going to move substantial amendments which go to the heart of the motion. To gag debate on it, firstly, and now to throw it to a vote is absolutely over the top.

It strikes me that people ought to think a little bit more clearly about this issue. They are making geese of themselves again and, as a gaggle, they are certainly becoming less and less impressive as the day goes by. I think it will be the cause of great amusement for this inquiry to proceed, because it has nothing to inquire into, for a start. There is no inquiry into the Government's proposed reduction in bed numbers because there is nothing to inquire into. It is a joke.

**Dr Kinloch**: Mr Speaker, on a point of order: Is not the present speaker now debating the original motion rather than the question of whether or not we - - -

**MR SPEAKER**: Yes, I uphold your objection. Mr Berry, I draw you back to the point we are debating.

**MR BERRY**: Therefore, on the issue of the suspension of standing orders, it is very important that members have some time now to consider this matter and perhaps to be lobbied with some sensible suggestions. There has been no sense in the debate for this motion. I think people need to reflect on the effect of what they are up to and what they would be supporting by way of the political stunt that has been proposed by Mr Humphries. They do not have sufficient time. And Mr Humphries himself, in a former debate, argued that these sorts of inquiries are a waste of time.

**MR SPEAKER**: Order! I bring you back to the question. The question is whether we wish to take a vote.

**MR BERRY:** I am dealing with that very issue, Mr Speaker, because I am talking about the need to be given time to lobby some of the less sensible members in this Assembly in order that we can convince them that they ought to vote against this motion, because it is a silly motion. So, I am indeed addressing the point.

**Mr Humphries:** Name them.

**MR BERRY:** Well, I think I could work on Gary Humphries. A little bit of work is required there; but I am prepared to put the effort in, because I am a hard worker, and everybody knows that.

**Mr Jensen:** I raise a point of order, Mr Speaker: Relevance.

**MR SPEAKER:** Please proceed, Mr Berry. You are overruled, Mr Jensen.

**MR BERRY:** Mr Kaine I am not prepared to work on; he is just plain stubborn. But, seriously, this is an issue that ought to lie on the table until people have a bit more time to think about it. It is an inquiry that has run out of time now. The decisions of the board in respect of bed numbers will not become evident until about 27 November. That is a loose figure, because a lot of issues have to be addressed between now and that time, in terms of the Government's budget.

If this committee of inquiry were to proceed, it would just make a mockery out of the whole system. Whilst it might be fine for Mr Humphries to grandstand on the issue - and we can all cope with that - it just seems to me a complete and utter waste of time and, more importantly, a complete and utter waste of this Assembly's resources, which might otherwise be used sensibly. They are not going to achieve a result for this Assembly. All they are going to do is achieve a political result for a few people who want to grandstand on the issue. I think this ought to lie on the table until people have a bit more time to reflect on the issues.

**MR MOORE (12.39):** This motion follows very quickly on the motion to gag the debate, which I voted against. The reason I voted against it was that I felt that we needed to explore a little further what the possibilities were. We had an amendment circulated by Mr Connolly. I thought it was important to explore the possibility of the Public Accounts Committee looking into this matter, rather than a select committee. The former is already established. Certainly, on previous occasions when I have suggested having committee inquiries, that is an argument that Mr Humphries himself has strongly advocated. Mr Kaine also has argued that, if there is a committee that can do the job, it ought to do it.

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These are issues that were not explored, and to now move to find more time is, I think, questionable. What should have happened was that this motion should have come up before the gag, and then we could have continued to explore it through lunchtime. That would have been a quite appropriate way to go. I am now wondering how we can actually go back to continuing the debate and getting rid of the gag, but I do not see that we have any possibility of doing that. Therefore, I think I am compelled to vote against the motion.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (12.40): What Mr Moore says makes absolute, eminent sense. The tactics of the Opposition this morning - whereby it forced a gag, with one member then voting for the gag on his own speech, and then, having done that, moved for an extension of time - demonstrate, as Mr Berry said, that this is just a stunt. This is purely and simply a political stunt.

I had circulated, and was expecting to move, an amendment which would have put at least a little bit of sense into the motion, because, as Mr Berry says, it is the Board of Health, appointed by Mr Humphries, that is making these proposals. But members opposite did not want to have a bar of it. That at least would have made the motion something approaching sensibility, but they would not be in it. There is, however, one sensible and probably prescient aspect of the motion, and that is the proposal that the committee contain three members - because the way the Liberal Party is going it will probably consist of three members before very long, and they will all be able to sit on this, to use Mr Kaine's term, "independent inquiry".

It is not an independent inquiry; it is a political stunt. Your tactics this afternoon - by preventing debate on the matter, particularly on a sensible amendment, and then, having gagged the debate, forcing extra time to get the vote - show that you are not serious or fair dinkum about having any form of proper inquiry. You just want to use this to try to make some cheap political points. You have just had the Estimates Committee hearings. That was your opportunity to get the Minister and senior officials in front of you, to ask them questions and to try to dig holes in the Government's case - and you have failed lamentably. Your performance in the Estimates Committee has been pathetic. Mr Berry has been savaged by a bunch of dead sheep in this Estimates Committee process  
- - -

**MR SPEAKER:** Order! Relevance, please, Mr Connolly.

**MR CONNOLLY:** No, they had their chance to kick goals in the Estimates Committee; they have had the opportunity to traverse exactly these questions. They have had the opportunity to traverse what the Government is doing in its health policy, having taken over the "smouldering ruins", as Mr Berry so well describes them, of the health system of

Mr \$17m Blow-out. And the failed former Treasurer consistently in this place said that he could not answer any questions about the finances of the health department because it was somebody else's problem. Well, it certainly was a problem, and his performance demonstrated that.

They complain that Mr Berry will not give them answers. The problem is that you people will not listen to his answers. Mr Berry has repeatedly explained the position about bed numbers, but you are just obsessive. Would it make you happy if we just went out to the junk stores around Canberra and bought up every second-hand bed? Then we would have more beds. We could perhaps even get the bed that Mr Collaery saw flying through the air at Manuka the other day. We could get that bed in and introduce it to the system; then you will be happy.

Mr Berry has explained repeatedly the appropriate way of measuring the delivery of sound health care. You were screaming yesterday for a set of figures on whether the health budget is running to estimate. You were baying for blood. You wanted the figures. Mr Berry produced them and, of course, they are good news for the Government, because they show that when you have a Minister who is controlling a portfolio - - -

**MR SPEAKER:** Order! Order, Mr Connolly, please! You are away from the point being debated. We are looking to time. I do ask you to get to the point.

**MR CONNOLLY:** The reason that we are debating the suspension of standing orders is that the Liberal Opposition has refused to allow us to put these issues in the debate. It has refused to allow us to move amendments, it has moved the gag and now it wants to extend time to take a vote on it. The performance of this ragtag Opposition, this rapidly dwindling Liberal Party, demonstrates that it is not fair dinkum about health. Only a few weeks ago we had a resolution that called for an inquiry into liquor licensing in the ACT, and we said then that if the Assembly wants an inquiry - - -

**Mr Kaine:** Mr Speaker, let us have some relevance in the debate.

**MR SPEAKER:** Order! Yes, that is hardly relevant.

**MR CONNOLLY:** Mr Speaker, this is utterly relevant, because it goes to the aspect of an inquiry.

**MR SPEAKER:** Order! Mr Connolly, I would ask you to resume your seat.

**MR CONNOLLY:** Why? My time has not expired. I have 14 seconds. Look, I have 11 seconds; 10, nine, eight, seven - - -

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**MR SPEAKER:** It has just expired. Mr Connolly, do you hear me?

**MR CONNOLLY:** Six, five, four, three, two, one, zero. Now I will sit down.

**MR SPEAKER:** Order!

**Mr Jensen:** I raise a point of order, Mr Speaker. That member continually disobeyed your instructions. I think you should take action against him.

**MR SPEAKER:** Yes, I think he was sailing a bit close to the wind there; but we will proceed.

**MR HUMPHRIES** (12.45): There are only a couple of minutes, I suspect, left in this debate. It is a bit ironic that the three members who have taken up the time are all against this motion. But I will make something quite clear: The stunt that is going on this afternoon - let us be clear about this - is coming from those opposite. They do not want this motion to be debated; they do not want this motion to be voted on today.

They are desperate that this committee not be set up. They are desperate that we do not have this select committee looking into Wayne Berry's handling of his health budget. That is why an amendment came forward five minutes before the normal adjournment at 12.30 pm, when they knew that it was too late to debate it. They knew that it would throw a spanner in the works. They were hopeful that it would fall after 12.30 pm and they would have the thing adjourned until next week.

Mr Moore, who has left the chamber, said that he was concerned about not having full debate on this matter. Mr Moore is coming back. I will offer him an invitation. I am very happy to have this matter adjourned until this afternoon, if the Government is fair dinkum and gives an undertaking that it will give us leave this afternoon to deal with it this afternoon during government business or after government business. If the Government is sincere about wanting to debate this, we will have to debate it this afternoon. This is private members' business; but this matter cannot be left until next week; it is too time critical. If Government members are sincere about having a debate on this, they will agree to adjourn it till this afternoon.

**Mr Berry:** How are you going to accommodate this? How do you do this? You tell me about the mechanics.

**MR HUMPHRIES:** You undertake not to deny us leave this afternoon to finish the debate this afternoon. Can you give us that undertaking?

**Mr Berry:** I can speak only for myself.

**MR HUMPHRIES:** You can speak for the lot, Wayne. If we get that undertaking, we will be happy to reconsider the matter. But the fact of life is that those people opposite do not want this motion voted on. They want to avoid it at all costs, because they do not want this motion to get up. That is the real agenda that they are running to today.

Let us see what this inquiry produces when its time comes. I am confident that this will produce some answers that the Government will not be very happy about. That, of course, is the point of having an inquiry such as this - to find out what is really going on in the health budget and whether the Government's parameters for the conduct of health matters in the ACT are simply too tight for anybody, including our Board of Health, to manage.

**MR MOORE (12.48):** Mr Speaker, to resolve this matter, I seek leave to move that we reconsider this matter after the completion today of government business, notwithstanding any motion that has been carried on the gag.

**MR SPEAKER:** I am in a bit of a dilemma about how, technically, we can get out of this.

**MR MOORE:** That would resolve the problem. I think it is a perfectly logical way to go about it.

**Mr Kaine:** We could resume the debate on this at 5 o'clock.

**MR SPEAKER:** Yes. Mr Moore, firstly, we will seek leave of the Assembly for you to move your motion. Then I want some confirmation of the motion.

Leave granted.

**MR SPEAKER:** Now we need to have a motion in such a form that we can overcome the gag.

**MR MOORE:** The motion I am suggesting is that, notwithstanding any motion previously carried, item 16 on the notice paper today, in private members' business, be made an order for debate at 5 o'clock this afternoon.

**Dr Kinloch:** Why not 3 o'clock? We have Estimates at 7 o'clock tonight. Some of us have been here since very early this morning.

**MR SPEAKER:** The technical way to overcome this is to put the question on the suspension of standing orders. If the motion to suspend standing orders is agreed to, that will then allow us to put Mr Moore's motion, if that is the desire of the house, and we can debate the matter later in the day. The question is: That the motion to suspend standing and temporary orders be agreed to.

Question resolved in the affirmative, with the concurrence of an absolute majority.

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**Dr Kinloch:** We have had no chance to debate this.

**MR SPEAKER:** We are going to do that this afternoon. I now call on Mr Moore to move his motion.

**MR MOORE (12.51):** I move:

That, notwithstanding any order of the Assembly in relation to this item of business, the debate be adjourned and the resumption of the debate be made an order of the day for a later hour this day and be called on at 5 p.m., notwithstanding any other business before the Assembly.

Question resolved in the affirmative.

**Sitting suspended from 12.52 to 2.30 pm**

### **QUESTIONS WITHOUT NOTICE**

#### **Quarterly Economic Report**

**MR KAINE:** I would like to follow up on a question I asked the Chief Minister and Treasurer yesterday about the Government holding back on the release of the quarterly economic report for the June quarter. The Chief Minister has made much of the fact that the statistics for Canberra were good and that the Government had no reason to withhold them. In fact, there was one very bad statistic, and that had to do with tourism. The total hotel and motel takings fell by 9.3 per cent compared with the same quarter last year, and visits to select major tourist attractions in June were 22.6 per cent lower than for the same quarter last year. Those statistics do not augur well if our major industry is collapsing. I ask the Chief Minister whether, given that she has taken \$1m out of the tourism budget, the statistics were held back until after the budget was presented.

**MS FOLLETT:** I repeat what I said yesterday, and that is that the statistics were certainly not held back. I released them the very moment they came to my office. In fact, I released the report before I had had a chance to study it in any depth myself. I did that because I think it is important that that information is in the public arena as soon as is humanly possible, and that is what occurred.

I should also qualify one of Mr Kaine's statements about my having made much, in his words, of the fact that the report was a good one. What I said yesterday - and I say it again today - is that in general terms the ACT economy is holding up relatively well in the face of the national recession. I certainly do not believe that we have any room for smugness, which is perhaps what Mr Kaine is implying.

Mr Kaine has asked some specific questions about tourism, and it is a matter that has concerned me as well. I am happy to provide him with some further information. He has quite rightly said that tourism takings were down in the June quarter. It is a fact that there was a fall in room occupancy rates for all accommodation from 54.2 per cent to 50.3 per cent from the June quarter of 1990 to the June quarter of 1991. However, it is also the case that for four- and five-star establishments there was a slight increase in room occupancy rates in that quarter, from 53.8 per cent to 55.3 per cent. So, there was that slight ray of hope during the quarter.

There was a reduction in the attractions attendance figure for the June quarter 1991. The figure was 1.103 million this quarter and for the June quarter of the previous year it was 1.426 million. As Mr Kaine points out, that is a decline of some 22.6 per cent. There are, however, some factors that ought to be taken into account in looking at that figure. The first is that there is a national trend in a recession for tourism figures to decline generally, and that has happened in the ACT as well.

There are some further factors that apply specifically to the ACT. One of the biggest attractions in the ACT is the National Gallery, and its attendance figures for the June quarter were down quite markedly over those for the previous year. The gallery experienced a decline of some 70 per cent in visitor levels. I think we can attribute that largely to the fact that in the June 1990 quarter they had had one of their blockbuster exhibitions - the Ancient Treasures exhibition from the British Museum. You could therefore imply that the June 1990 figure for the National Gallery was very much inflated because of that enormously attractive and popular exhibition.

A further factor that ought to be taken into account is that in 1990 the Easter long weekend fell during the June quarter, but in 1991 the Easter long weekend fell during the March quarter. So, there is a further difference there by virtue of the fact that on a long weekend, when Canberra has a lot of visitors, we were not measuring the same time period in 1990 as we were in 1991.

There is also the question of airline deregulation. Sadly, it is true that visitors to the ACT have not had quite the same advantage in airline deregulation as have visitors to other tourist destinations. The discounting of air fares that took place generally has not taken place to a marked degree to the ACT. That is a bit of a disadvantage we have had; obviously, the cheaper fares to other destinations were attractive to people wishing to take a holiday or make a visit somewhere. So, there are some specific issues that help to explain the tourism figures for June 1991.



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Perhaps more important is what we are doing about it. I am sure Mr Kaine realises that he was in government for the vast majority of the June quarter 1991. Whilst I take his question in good faith, it is nevertheless the case that he was responsible for a large proportion of the figures in that June 1991 report.

I have responded in the Estimates Committee to very detailed questioning on the tourism budget. It is my belief, as I said to the Estimates Committee, that, if the Tourism Commission is able to arrange its restructuring and manage its own resources in the way that I know it wishes to do, it will have very close to the same amount of money available to spend on tourism marketing this year as it had last year, and I think that is a good thing. The restructuring was commenced, and quite sensibly, when Mr DUBY was Minister. It is being continued whilst I am Minister. It still represents a management challenge; nevertheless, it is going ahead, and going ahead quite smoothly.

I have also appointed new commissioners to the Tourism Commission, in response to requests, largely from the private sector. I have confidence that the newly appointed commission will be able to achieve a very good result for tourism. I acknowledge its importance as an ACT industry. It is certainly my belief that it has a great deal of potential in the ACT. Whilst I have the ministry I will be doing everything I can to encourage the growth and development of the industry.

**MR KAINE:** I ask a supplementary question, Mr Speaker. That was a long answer to a short question, but it did not answer the question. Since there is this serious downturn in tourism, which must eventually reflect in the rate of unemployment and the rate of turnover in our retail stores, does the Chief Minister not agree that, since these statistics were in her hands before the budget was presented, it was a bad time to decimate the Tourism Commission?

**MS FOLLETT:** I believe that I have answered Mr Kaine's question very fully. I stress again that these figures were not in my hands before the budget. These figures were in my hands less than a week ago, and I released them as soon as they were in my hands. So, you have had them for exactly the same amount of time as I have. I say again that the figures are for the June quarter 1991 and that Labor took government in June 1991. So, for the vast majority of the three months of that quarter, you were in government.

I have explained the action that has been taken over the tourism budget. I explained it at great length in the Estimates Committee and I have explained it twice in this Assembly. I again express my confidence that we will get a very good outcome for ACT tourism. I can go into greater detail - I suspect that that is not what members wish -

about how that is to be achieved and the strategies I have embarked upon, other than those I have already described. Something tells me that it is not the wish of the Assembly to hear that at great length.

**Mr Jensen:** Let us have a ministerial statement later on.

**MS FOLLETT:** There may be a hint to me that I might make a ministerial statement on the matter at some early stage.

### **Housing Trust Loan Repayments**

**MR STEVENSON:** My question is to the Attorney-General. I refer to an earlier question on 7 August this year and the Attorney-General's written reply of 2 October. In my original question I referred to the fact that it was possible to ease the burden of mortgage payments for ACT Housing Trust clients by making more frequent repayments, and by having its software modified to allow Housing Trust mortgagees to avail themselves of this facility. Mr Connolly indicated in his reply that this was not possible as the Housing Trust uses a different format for repayment calculations from the trading banks. The obvious question that arises from this is this: Are we to infer from the reply that ACT Housing Trust borrowers are on less than equal terms with those borrowing from commercial lending institutions, bearing in mind that these Housing Trust loans are usually sought by the disadvantaged, who could not normally satisfy commercial lending criteria? Is the Housing Trust, therefore, taking unfair advantage of this situation? Will Mr Connolly undertake to review this matter urgently to ensure that Housing Trust borrowers enjoy equal benefits to commercial borrowers?

**MR CONNOLLY:** Mr Stevenson's question basically is whether Housing Trust borrowers are on a different basis from borrowers from commercial banks. The short answer is yes, they are. They are on a significantly better arrangement than those with the private banks because the basis of calculation of interest is more beneficial to the tenant. That is why it does not advantage the tenant to pay more frequently, unless he does it on a fortnightly basis, which over a year means 26 fortnightly payments as opposed to 12 monthly payments. If you were to do that, you would pay back your loan more quickly but it would not affect the amount of interest you pay.

The way interest is calculated on Housing Trust mortgages is different from the way interest is calculated on ordinary commercial mortgages, to the benefit of the Housing Trust tenant. The problem with the commercial loan is that it is calculated on the outstanding balance at the end of the month. If you break that down, it is on the outstanding balance each fortnight. That is not the case with Housing Trust tenants, as was explained in that fairly long and complex answer to you. I can provide officers to take you through the detail of that.

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On the question of whether there is a different basis for calculation of interest on Housing Trust loans, yes, there is. Are they disadvantaged? No, they are not; it is a more beneficial system. Indeed, if the banks were to introduce the same system, we would all be better off.

### **Rural Firefighting Service**

**MR COLLAERY:** My question is to Mr Connolly as Minister for Urban Services. What are the requirements to allow controlled burn-offs by the Rural Firefighting Service? No doubt he is aware that it is burn-off season. I wonder whether he would inform the house what interest he has taken in that concern and what are the parameters of his Government in relation to controlled burning.

**MR CONNOLLY:** I have not looked into the detail of that issue. Controlled burn-off is an extraordinarily sensible action. Last year was a very high fire season. That is evidenced by the extent to which last year the budget for the fire service needed to be supplemented because of the extraordinarily high demand on the rural bushfire service. A high level of rural fires occurs when there is a period of warm, dry weather and a large quantity of combustible fuel. The practice of controlled burn-off, which is unpopular with urban dwellers because it results in smoke, which is nasty - - -

**Mr Collaery:** And with little furry things that get heated.

**MR CONNOLLY:** And with little furry things that may get burnt. It is better to embark on a controlled program of burns in the low fire season than to risk a major conflagration in the summer season. In the ACT, as in every State and Territory in Australia, there are programs for controlled burn-offs. Burn-offs occur under the supervision and control of the rural fire services. They are done when the experts in firefighting - and I am not one - indicate that it is a sensible thing to do.

That policy applies under this Government. It is the same policy that applied under the former Government, when Mr DUBY was Minister. It is a sensible practice; it has occurred for years and it will continue to occur. To stop it would simply risk a massive period of fires during the peak of the season.

**MR COLLAERY:** I ask a supplementary question, Mr Speaker. In view of the Minister's assurances, can he tell us why there is a controlled burn taking place at the moment near Black Mountain? As we resumed after lunch, the wind velocity recorded at Fairbairn was 37 knots. There is a west to north-west wind blowing, which in the vicinity of Black Mountain points the wrong way, and it is a day of extremely low humidity. Can the Minister, in view of his assurances, explain the controlled burn today?

**MR CONNOLLY:** I usually check the weather conditions at the Fairbairn base before coming into question time, but I neglected to do so today. I do have a glass of water on the table; and the Chief Minister directed that perhaps I should shoot out and put it out, so I will do that.

This is a fairly silly question - to expect me to know what is happening this afternoon. People may not like this, but the alternative to a controlled burn-off program is to have a major risk of fire during the peak season. If people would prefer this not to occur, the risk should be on their shoulders.

**Mr Doby:** Just say that they got it wrong.

**MR CONNOLLY:** I will investigate what has happened today. If they got it wrong, I will say that they got it wrong; but I obviously cannot tell you now what is occurring. I will have it investigated and report to the Assembly. But the principle of controlled burn-off is a sensible one.

**Mr Kaine:** You are really not on top of your portfolio, Minister.

**MR CONNOLLY:** This is the failed former Treasurer, who did not have a clue what was happening in the health portfolio. This is Mr \$17m. I may not know the temperature at the Fairbairn base or the wind velocity; but I damn well know where \$17m of the money is being spent, which this man simply did not have a clue about. For him to say that this man does not have control over his portfolio is farcical: Mr \$17m!

### **Stromlo High School**

**MRS NOLAN:** My question is to Mr Wood in his capacity as Minister for Education. In view of the Government's decision not to allow the amalgamation of Holder and Stromlo campuses to proceed until the 1993 school year, no doubt a certain number of students from Holder will begin to drift across to the Waramanga campus for the 1992 school year. In particular, I refer to the small number of students who have currently indicated their wish to enrol at Holder. I think that for year 7 there were only some 30 students. Will you guarantee that there will be sufficient funds to ensure that resources at the Waramanga campus can adequately and comfortably be maintained for the expected intake of those pre-amalgamation drifters and also guarantee that adequate funds will be allocated to the Holder campus for those few students who will remain there?

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**MR WOOD:** The funds will be provided, and I believe that they will be quite adequate in terms of the usual formula. If the enrolments at Waramanga campus increase, then the formula applies. There are more teachers requiring more funds. There will be some appropriate adjustment at Holder, if that is where those children are coming from.

The way the two campuses are to operate next year is obviously a matter of some debate now within the Education Department. I have already had some discussions with my department about that and I have rostered a meeting either next week or the week after, again with departmental officers as well as the principals of those schools, to see that the arrangements next year are the best we can do for the students.

**MRS NOLAN:** I ask a supplementary question. Mr Wood, you referred to resources in terms of teaching staff, but I also want to know about the buildings. Certainly, in terms of the Holder building, there are some works that will need to be carried out if that building is to stay open for another 12 months.

**MR WOOD:** Yes, that is in train. That again is a matter of importance. What needs to be done to ensure good physical surroundings and sometimes the occupational health of the people using that building is noted.

**Mrs Nolan:** What a waste of money!

**MR WOOD:** It will be done. We have not wasted money by putting in demountables for a very short space of time on one campus and then taking them out again later on.

### **Superannuation**

**DR KINLOCH:** My question is to the Chief Minister in her role as Treasurer. I understand that the policy of the ALP is to ensure superannuation for all workers, especially to right the situation where many workers may have gone for some time without superannuation. The current ACTCOSS magazine has an article about that, which is very interesting, as that magazine always is. I ask the Chief Minister about those workers who work in the context of the ACT Government and Legislative Assembly, including MLAs. We are workers, in that context, who do not at the moment have superannuation. What plans are in train to ensure that we are treated with social justice?

**MS FOLLETT:** I thank Dr Kinloch for a rather convoluted question. I think the issue Dr Kinloch is searching for here is: When are MLAs going to get superannuation? I gather that that was the question. It was hedged about by a barrier of verbiage, but I suspect that that is the issue. All I can say at this point, as I am sure members

know, is that it is a matter that has been discussed between and amongst members of this Government and no doubt between and amongst members of the previous Government. The matter is still under discussion, and I expect that the Government will be considering it shortly.

A threshold issue with the question of superannuation has been devising a scheme that is fair and could not be painted in any way as being lurks and perks for MLAs. I believe that one criterion for a scheme that would be seen as fair and reasonable and absolutely comparable to all other schemes is that the scheme should be a contributory one. As I said, I expect that the Government will be considering the issue shortly.

### **Narellan House**

**MR JENSEN:** My question is directed to Mr Wood in his dual capacity as Minister for Education and Minister for the Environment, Land and Planning. Is the Minister aware of increasing speculation and rumours about the future of Narellan House and its effect on the provision of student accommodation within the ACT, particularly for ACT TAFE? When will the Minister be putting the speculation to rest and advising what action is being taken to resolve student accommodation problems if and when Narellan House is closed? Secondly, if Narellan House is closed, when will we know the future of the buildings and the site?

**MR WOOD:** We have a concern for the safety of the students who presently occupy Narellan House. It is my clear opinion, based on the best advice that has been given to me, that it is not a safe place in which to live. It is a fire hazard and it is a health hazard. To get it up to any standard that is acceptable these days would require a very large sum of money. Obviously, therefore, the Government is looking to the future of the house, and it is no surprise that for this Government, as for the former one, a very likely option is that it will be demolished and other accommodation provided, whether there or somewhere else suitable for students.

I have had discussions with the students association and with interested agencies about the future of the site and what should happen. It would be my wish that we resolve the issue very soon. If it is not to be available to students next year, they need to know within a very short space of time. Our primary concern is for those students. Alternative accommodation will be found for those who need it. The precise details have been a matter of investigation for quite a time, cooperatively within both departments, and I will be making an announcement fairly soon.

### Purchasing Policy

**MR STEFANIAK:** My question is to the Minister for Urban Services. I remind the Minister of one of the campaigns his Government supports, the Canberra Region campaign. I also refer him to a pamphlet, "What and Where to Recycle in the ACT", which bears his smiling face on page 2, with a little message from him. In the light of the Canberra Region campaign, which supports the Canberra region, why was this publication printed by Westonprint in Kiama?

**Mrs Nolan:** You should have come to the Estimates Committee and you would have got the answer.

**MR CONNOLLY:** You should have come to the Estimates Committee and you would have got the answer.

**Mr Stefaniak:** Which one of you is the Minister? You can give us the answer now, Mr Connolly. I am sure some of these people were not at the Estimates Committee.

**MR CONNOLLY:** Mrs Nolan expresses it better than I could. This issue was gone into in some depth at the Estimates Committee. There is a threshold question of where the region is, and Kiama is not that far away. The basic answer, which I think most members are aware of, but perhaps Mr Stefaniak is not, is that it is simply not open to this Government, nor was it to the former Government, to adopt a strict only-buy-local policy. We are, as the ACT Government, a signatory to a national agreement which prohibits preference in government purchasing.

The advice I get, and I presume that Mr DUBY would have been given similar advice when he was Minister, is that the ACT actually benefits from that provision which prohibits preference. A lot of companies in the ACT and the region do very well from Commonwealth purchasing. If we did not have that policy, Commonwealth Ministers of whatever political persuasion would tend to want to purchase in their electorates. We do well out of that. We also get New South Wales Government work and other State government work done here.

It is simply not open to any government to adopt a strict only-buy-local policy. I noticed in *Business Eye* some months ago that the small business spokesperson for the rapidly diminishing Liberal Party - one of the candidates for the next election - actually said, "We will buy local". That indicates again the abysmal lack of knowledge of basic government structures sometimes demonstrated by this Liberal Party. Mrs Nolan nods, quite properly. The information was given very clearly.

**Mr Kaine:** It was a member of the Canberra Unity Party who said that.

**MR CONNOLLY:** They change from time to time. It is hard to keep up with. The information was given very clearly to the Estimates Committee. There is no ability for this Government or any government, unless it were to breach that agreement or get out of that agreement, to have an only-buy-local policy. All the best economic advice is that we do better with that no-preference agreement.

### **Bus Shelters**

**MR DUBY:** My question is addressed to Mr Connolly as Minister for Urban Services. Will the Minister give an undertaking that no more wooden heritage-type bus shelters will be demolished in the inner areas of Canberra?

**MR CONNOLLY:** I can certainly give that undertaking where it is open to us to preserve them. ACTION has done a very thorough investigation of those heritage bus shelters, and you are absolutely right in saying that they are an important part of the inner urban environment. Some of them have been in an extraordinarily dilapidated state of repair. Some of them have been white ant infested and the like, so it is not possible to keep them.

ACTION does have a standing policy that, wherever possible, they will be retained. Perhaps what I could do is give an undertaking that, if it is decided by ACTION that it is not possible to preserve a shelter, that fact will be widely publicised. It may well be that community groups or even the historical societies might want to get involved and help save it. I can give an undertaking that we will not demolish any without full public notice, but I cannot say that we will always keep them. It gets to a point with some of them where it may not be worth the cost of full restoration. Wherever possible, we will do so.

**MR DUBY:** I have a supplementary question. I am amazed that the Minister can say that it may be possible for community groups and conservation groups to protect and save these premises when theoretically it is not economically possible for ACTION to do so. I find that a remarkable answer. The simple fact is that these are parts of our heritage and the Minister should be able to give an undertaking that he will not allow any more to be demolished.

**MR CONNOLLY:** An item may be so badly damaged that it is not possible to fix it without spending vast quantities of money. I have to balance whether I can provide a service to the people of Gordon or Conder or the new suburbs in the extremities of Tuggeranong, who now do not have access to public transport but who will from 1 January have access to public transport, or spend vastly increasing amounts of money on, say, restoring a bus shelter that is in a hopeless state of repair.



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I mentioned that the historical groups may be interested. There is a very active historical group of former ACTION employees who are very interested in these sorts of things. There are very active inner city regional groups. Perhaps they may be interested in chipping in to help save something. I would rather spend the dollars to provide a service to the people in the outer areas or to provide better services to disabled people, who are constantly complaining, and rightly, about the lack of adequate facilities, than pour money into restoring bus shelters. We will do what we can, but I will not give an undertaking that it will always be possible to do that. It is always a question of balance.

**Ms Follett:** I ask that further questions be placed on the notice paper.

### **SUSPENSION OF STANDING AND TEMPORARY ORDERS**

**MR BERRY** (Deputy Chief Minister) (3.02): I move:

That so much of standing and temporary orders be suspended as would prevent notice No. 13, private members' business, being called on forthwith.

**Dr Kinloch:** Mr Speaker, do we get to speak on this?

**MR SPEAKER:** Yes.

**MR BERRY:** Mr Speaker, this motion to suspend standing and temporary orders is an important one. It is not one with which I am particularly comfortable, because it is better that private members' business be dealt with in the period allotted and that it be ordered by the Administration and Procedures Committee. But this particular disallowance motion is important to the Government because of the effects that it may have on, firstly, tourism; secondly, sport, and the cricket industry generally - - -

**Mr Moore:** Thirdly, how many people die.

**MR BERRY:** Mr Moore cried out in the background, "And how many people die". I will deal with the issue of the motion in the course of debate later. I think we just need to deal with the issue of - - -

**Mr Doby:** You are just a lackey of the tobacco companies, Mr Berry.

**MR BERRY:** You will hear that I am not. The issue of suspension of standing orders should be resolved now in order that members of the Assembly can debate the matter throughout the afternoon, I suspect, and express a view on where they stand on tobacco sponsorship.

**DR KINLOCH** (3.04): Mr Speaker, I will speak very delicately on this. This morning I was saying that I had not had a chance to speak. But that was not to do with the motion to prevent the earlier debate; it was because we did not have a chance to debate whether or not we would come back to talk about Mr Humphries' motion at 3 o'clock or 5 o'clock or whenever. There was no discussion of that. So, I am wondering now why yet another piece of new business is being put up when that business is still not concluded. I would just like to ask: Why cannot we now continue on Mr Humphries' motion?

**MR MOORE** (3.05): Mr Speaker, I understand why the Government would like to bring this on quickly, and my explanation may assist Dr Kinloch by answering his question. Once a member has moved disallowance, thanks to legislation put up by Mr Connolly, I think, last year, the onus is on the Government to ensure that such a motion of disallowance is debated and resolved; otherwise the matter just becomes disallowed if nothing is done about it. So, I understand why Mr Berry would want to bring that motion on.

To bring it on with less than half an hour's notice to me, though, is entirely inadequate. I would be absolutely delighted to debate this matter tomorrow. I accept that Mr Berry would like to be able to assure the tobacco industry that it can have its advertising go ahead. I am sure Mr Berry would like to be in a position to let the cricket board know that it can go ahead and plan or, as the case may be, not plan its sporting event, so that it knows where it is. Since it is the Prime Minister's XI that would be playing at that time, I am sure he would like to let the Prime Minister know that this sporting event can either go ahead or not go ahead.

Whilst I would be delighted to debate this matter tomorrow, and I think that is a quite appropriate way to deal with it, it is entirely inappropriate to give us half an hour's preparation.

**Mr Berry:** If you had said that you did not want to do it, Michael, I would have said okay.

**MR MOORE:** I can indicate to the house that I would be quite prepared to deal with the matter tomorrow, at whatever time the Government sees fit. To clarify a point that Mr Berry is raising in an interjection, Mr Speaker - that, had I said to him half an hour ago that I objected, he would have taken that into account - the fact is that I did not say that. He did say to me, "Well, we are going to bring that on this afternoon". I must say that, first of all, I did not realise that he meant at 3 o'clock and, secondly, I was working on something else for this afternoon and I did not give a great deal of thought to it at that point. Therefore, in this respect, I apologise to Mr Berry; but, rather than suspend standing orders, I ask that we deal with it tomorrow.

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**MR BERRY** (Deputy Chief Minister), by leave: I will withdraw the motion.

Motion, by leave, withdrawn.

**MR Kaine** (Leader of the Opposition) (3.08): Mr Speaker, I would like to comment on Mr Berry's motion.

**Mr Berry:** It is withdrawn.

**MR Kaine:** I still wish to comment on it.

**MR SPEAKER:** Seek leave to make a statement.

**MR Kaine:** I seek leave to do so.

Leave not granted.

**MR Kaine:** I move:

That so much of standing and temporary orders be suspended as would prevent Mr Kaine from making a statement on this matter.

Question resolved in the affirmative, with the concurrence of an absolute majority.

**MR Kaine** (Leader of the Opposition) (3.09): I very much appreciate the support of members on this matter. It is all very well for Mr Berry to jump to his feet and try to manipulate private members' business.

**Ms Follett:** It is government business.

**MR Kaine:** It is not government business; it is private members' business. It is a motion on the notice paper from Mr Moore in private members' time.

**Mr Moore:** It is the Government's responsibility to bring it on.

**MR Kaine:** I would submit that it is private members' business, and the Administration and Procedures Committee determines when private members' business comes up. This matter has not been considered by that committee, and Mr Berry attempts to bring this matter on to suit his convenience. I partly, but not totally, agree with Mr Moore that it is totally improper for the Government, on a few minutes' notice, to try to bring the matter on when nobody knew that it was going to be brought on; nobody was prepared for it and nobody can properly debate it.

**Mr Berry:** At the first sign of a complaint it was withdrawn, Trevor.

**MR Kaine:** Okay; but it might have been wiser if you had talked to people before we got on the floor of the house.

**Mrs Nolan:** He did - half an hour ago.

**MR KAINE:** Who did he speak to?

**Mrs Nolan:** Gary.

**MR KAINE:** He did not. I beg your pardon.

Members interjected.

**MR KAINE:** Everybody is speaking from a position of absolutely no knowledge.

**Mr Berry:** I think you are the only one.

**MR KAINE:** I am not the only one; I beg to differ.

**Dr Kinloch:** I did not know about it.

**MR KAINE:** Neither, I submit, did most of the members of the Opposition. It was obvious that Mr Moore did not know, and it is his motion that is on the notice paper. So, Mr Berry is trying to be cute. He may have withdrawn it when he felt the heat on the back of his neck, but that does not excuse his trying to bring the thing up in the first place. The Assembly does have some operating procedures, and they should be followed. It is not for the Government to decide arbitrarily when it will or will not bring on private members' business.

**MR BERRY** (Deputy Chief Minister), by leave: The matter is important to government and, as has rightly been said, it is an issue for government to decide upon in terms of the timing of the debate on the issue. There was some discussion with a range of members around the Assembly. They included somebody from the Liberal Party, and all of the other groups. It was at short notice, and there was no general concern about the matter coming on quickly. It was understood why the Government wanted to bring it on. It is listed in private members' business. But it is a matter of government imperative; it is something that the Government has to deal with.

I am sorry that Mr Kaine misunderstands the situation. At the first sign of dissent from the matter being dealt with, Mr Speaker, the Government indicated clearly that it would not proceed with it until members were happy to deal with the issue. It is not a big deal, and I do not know why Mr Kaine is huffing and puffing about it.

## RURAL FIREFIGHTING SERVICE

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services), by leave: Mr Speaker, at question time, Mr Collaery asked me about a burning-off operation and made much play of the current wind velocity and direction at the Air Force base at Fairbairn. I am not saying that he got that wrong; I am advised that the wind is quite irrelevant. It assists the burn-off operation because they are burning against the wind; that is, the burn-off is proceeding in such a manner that the front of the fire is facing the wind and the wind, to the extent that it pushes the fire, pushes it back onto burnt-off areas.

**Mr Kaine:** It is called back-burning.

**MR CONNOLLY:** It is called back-burning. Mr Kaine understands it well, and properly so. Mr Collaery had some problems. It is being conducted by the Canberra nature parks people of DELP; the Bush Fire Council is involved in monitoring, as are the air pollution people, I am told.

I am told that this is adjacent to an area which last year, under the former Government, was not back-burned. Members would recall a very unpleasant day here, at the height of last summer, when my colleague Mr Wood, perhaps amongst others, had to leave the Assembly at very urgent or short notice because houses in O'Connor were under threat from just the sort of major fire - - -

**Ms Follett:** He is not here now.

**Mrs Grassby:** Where has he gone?

**MR CONNOLLY:** He is all right now. We are not getting anywhere near Mr Wood's house; I am sure of that. Because a back-burn operation had not been conducted last year, the houses and property of Mr Wood and many other Canberrans were at risk when there was a major fire. The operation is being conducted with full realisation of the wind speed and velocity; indeed, it is because of the wind that they are conducting the safe operation.

## PAPERS

**MR BERRY** (Deputy Chief Minister): Mr Speaker, for the information of members, I table, pursuant to section 93 of the Audit Act 1989, the Building and Construction Industry Long Service Leave Board Annual Management Report 1990-91 and, pursuant to section 79 of the Audit Act 1989, the Department of Urban Services financial statements, including the Auditor-General's report for the period from 11 May 1989 to 30 June 1990.

**COMMUNITY LAW REFORM COMMITTEE**  
**Reports and Ministerial Statement**

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services): Mr Speaker, for the information of members, I present the following reports from the Community Law Reform Committee of the Australian Capital Territory: Report No. 3, entitled Contributory Negligence and Funeral Costs in Fatal Accident Cases, and Report No. 4, entitled Loss of Consortium and Loss of Capacity to do Housework. I seek leave to make a very short statement.

Leave granted.

**MR CONNOLLY:** Mr Speaker, the Government welcomes the third and fourth reports of the ACT Community Law Reform Committee. I am able to advise the house that the Government will be living up to the precedent, which has been well set by the former Government in this Assembly, of responding very promptly to these reports, and I hope to be introducing tomorrow legislation which will act on these reports. I foreshadow that to members so that they can respond and make further remarks tomorrow.

The most significant single aspect of these Law Reform Committee reports is the abolition of the old-fashioned and demeaning tortious action of consortium, which was a legal action that was premised on the legal concept that a wife was property of a husband and that the loss of a wife was to be equated with the loss of a cow or the loss of a slave.

A husband could receive monetary compensation for the loss of a wife, but a wife could not receive monetary compensation for the loss of a husband. It was premised on that ancient and obviously discredited and inappropriate English common law doctrine of a wife being property, and it will reflect credit on this Territory and Assembly when that action is removed.

Mr Speaker, I thank the members of the Community Law Reform Committee for continuing the extraordinarily high quality of work and beneficial contribution to the ACT community in these two reports. I look forward to a constructive debate when the Government promptly responds to these reports, hopefully tomorrow.

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**WORLD FOOD DAY  
Ministerial Statement**

**MR BERRY** (Minister for Health and Minister for Sport): I seek leave to make a ministerial statement in relation to World Food Day.

**MR SPEAKER:** Is leave granted?

There being no objection, leave is granted.

**Mr Humphries:** Reluctantly.

**MR BERRY:** All you had to do was say five minutes ago - - -

**MR SPEAKER:** Mr Berry, please proceed.

**MR BERRY:** All you had to do was say no.

**Mr Humphries:** I am not going to be so ungracious as you were.

**Mr Stefaniak:** We are not so churlish as that, Wayne.

**Mr Humphries:** We have standards.

**MR BERRY:** Mr Speaker, the Liberal Party members opposite tell me that they have standards, but there are a number of different standards now - - -

**MR SPEAKER:** Order! Let us proceed to the statement.

**MR BERRY:** Mr Speaker, it is my pleasure to draw to members' attention the significance of World Food Day. In our deliberations today we should be cognisant of what we, as individuals and as a nation, can do to alleviate the plight of those afflicted by hunger and poverty in many parts of the world. World Food Day, which is held each year on 16 October, was started as an initiative of the United Nations Food and Agriculture Organisation, the FAO - I know that Mr Stevenson would be a supporter of that organisation - and also marks its anniversary date.

The day serves as an annual reminder of the scope and toll of widespread hunger and its principal cause, poverty. One hundred and fifty member countries of FAO, including Australia, observe the day with grassroots activities at a national level. This year the theme for World Food Day is "Trees for Life". It highlights the part that trees play as a source of life, which is essential to the sustainable production of food for all, both now and for generations yet unborn, and to increase awareness of the dangers in the unlimited exploitation and depletion of the natural riches of the world's forests.

Mr Speaker, activities nationally and in the ACT region include a modest luncheon at Parliament House, hosted by the Minister for Primary Industries and Energy, the Honourable Simon Crean; the promotional materials distributed by the Food and Agriculture Organisation, and planned activities by the University of Canberra and schools in the ACT region.

To the relatively affluent community of Canberra, World Food Day should be a reminder that hundreds of millions of fellow human beings, despite their best efforts, do not have enough to eat. It should be a reminder that these people desperately need help, not in the form of welfare but in ways that will make them less vulnerable, better able to make the most of available natural and human resources, more productive and, of course, more self-reliant.

It should be a reminder that hunger is not just a local problem but one of global proportions. Therefore, it also should be a reminder that public support for such efforts is essential if they are to continue, expand and improve. I am sure that you will join me in supporting World Food Day activities and the very important message that it has for us all.

### **LAW REVIEW PROGRAM Ministerial Statement and Paper**

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services): I seek leave of the Assembly to make a ministerial statement on the law review program and table a report entitled "Legislation Review".

Leave granted.

**MR CONNOLLY:** Mr Speaker, I apologise to the extent that the system broke down and full notice had not been given. It is certainly our intention to do that always on these matters.

The report of the ACT law review program, "Legislation Review", is presently being circulated to members. This is a very simple proposal which, when it was first introduced last year by the Alliance Government, with the support of Labor, was astounding in its simplicity. Mr Justice Asche once said of a law reform proposal:

Because such a solution is so obvious, so sensible and so logical, it must necessarily be impossible. We need spend no further time on it.

Notwithstanding that statement, I believe that it is essential for us to look at simple, basic things in law review, and the style, format and accessibility of legislation is one such issue.



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This report was prepared as part of the ACT law reform program which received, as I said, the support of all members of this Assembly last year. The program has two elements - community law reform, which is the province of Mr Justice Kelly's Community Law Reform Committee from which we just received two reports, and law review. The law review program is as important a part of the overall law reform process as community input. The focus of law review is different from the community law reform agenda: The emphasis is on the review of legislation leading to greater access of the community to law and improved administration.

Legislation, obviously, has a major influence on almost every aspect of an individual's life. Many people who come into contact with the law have extreme difficulty interpreting it because of the complexities in the drafting style and the language that is involved in most statutes. There is a presumption at common law that every citizen knows the law and is covered by it. It is the old phrase - "Ignorance of the law is no excuse". But, for justice to be done, legislation needs to be in a format which is accessible to all and which can be generally understood by those citizens who are affected by it.

It was with these things in mind that a wide ranging review of all ACT legislation was undertaken by officers of the ACT Attorney-General's Department. An examination of all ACT Acts and regulations was conducted, in conjunction with a comparison of the equivalent laws in the States and the Northern Territory. A number of similarities and differences between ACT and State legislation were identified by the report. There are approximately the same number of Acts in the ACT and the States when allowances are made for the different responsibilities of the different jurisdictions. For historical reasons, however, there are many more regulations in the States than in the ACT. ACT Acts are generally much less wordy than State equivalents.

A number of basic shortcomings and deficiencies in ACT legislation have, however, been identified. ACT laws are fragmented; they have been heavily amended or they have provisions that have not yet commenced, despite being on the statute book for many years. For example, the Motor Traffic Act 1936 has been amended more than 120 times. The report identifies the most fragmented laws for early review under the proposed review program.

ACT laws also lag behind reforms adopted in New South Wales or Victoria. For example, the ACT does not have legislation dealing with de facto relationships or replacing obsolete common law offences. The report recommends a process for systematically identifying reforms which have been adopted in other States for possible incorporation in ACT legislation.

ACT laws contain a great deal of repetitious material. For example, enforcement powers of the Auditor-General under the Audit Act 1989 are spread over almost a dozen sections of that Act. The report suggests a methodology to systematically identify such material and consolidate our legislation.

Unnecessary costs are imposed on the community or government because of inefficient or outdated legislation. For example, the passage of time often means that measures which were suitable at the time of making legislation are inappropriate today. The report examines different approaches to the construction of cost-effective laws.

The implications of these shortcomings are numerous. Legislation is examined not only by members of the legal fraternity or people with years of experience in the particular field to which the legislation applies; often, people without any legal training will also be placed in a situation where it is necessary for them to examine legislation and attempt to interpret it and to apply it to a particular set of facts. This can lead to problems if the law is not accessible.

Proponents of the plain English approach to drafting, and I am certainly one of those, acknowledge this and repeatedly call for a new approach to the drafting of legislation - one which recognises the need for simple user-friendly legislation. There is a view that simplicity of language and style does not always lead to ease of interpretation. The dilemma is that the ideas are often complex and that simple language cannot always get across complex issues. This has led to a refreshing debate within the community, which has given rise to discussion of many of the issues highlighted by this review in relation to access and justice under the law.

True access can be achieved only if the meaning of legislation is clear to all of those who use it, not just to highly trained lawyers. However, justice can be achieved only if laws are applied similarly to like fact situations. This means that scope for different interpretations must be kept to a minimum and the wishes of the legislature must be made clear. Our draftspeople are left with the difficult job of encompassing complex concepts in the simplest terms possible, whilst excluding potential doubt about particular meanings. The difficult solution for which they strive but which they sometimes fail to reach is a delicate balance between the simplicity of style and language and a comprehensive coverage of the complex subject matter.

The drafting style that is currently used by the ACT Parliamentary Counsel adopts a straightforward approach to achieving this balance and must be encouraged and assisted wherever possible. This review of legislation will go some way in assisting the drafters of ACT legislation to identify where the relationship has become unbalanced.

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Complaints about the way in which legislation is drafted and amended are not new. Edward VI once said:

I would wish that ... the superfluous and tedious statutes were brought into one sum together, and made more plain and short, to the intent that men might better understand them ...

Of course, these days we would say "men and women might better understand them", but the point is clear. The finding of this review, that ACT Acts are often overamended and fragmented through delayed commencement, echoes those statements.

The commencement of self-government in the ACT should lead to the creation of relevant new legislation rather than encourage the adherence to outdated and perhaps unsuitable legislation which is kept functional through repeated amendment. This review indicates a preparedness to look to new legislation as an answer.

A process of thorough examination and reform of style and structure would not only make legislation easier to follow and use but also enable changes within legal, sociological and political thought to be adopted and reflected in the new legislation. Legislation has an important role to play in terms of bringing about social change, and the progressive nature of this review, as illustrated through the consideration of such things as Aboriginal customary law, is most promising in that regard. This progress, coupled with the elimination of outdated and irrelevant laws, would create excellence within the ACT legislation and minimise the extent to which legislation impacts negatively upon the community.

This review is not simply designed to highlight problems inherent within the structure of ACT legislation to enable improvements to be made and accessibility of the legislation improved, although this is a valuable and necessary function which it fulfils. It will also serve as a framework for a comprehensive and systematic program in which progressive reforms can be identified and adopted. Laws which present difficulties for a particular group, such as business or community bodies, can be focused upon and the perceived difficulties can be resolved.

The review program will enable the ACT to identify unimplemented reforms of the major law reform bodies which should be adopted in the ACT, as well as reforms of the States and the Northern Territory which are found to be of potential value to the ACT. Whilst this initial review has identified a failure to readily adopt the reforms of other jurisdictions, one should not draw from this a direction to

simply adopt moves of other regions without thorough consideration. This review will help in that process of consideration and lead to increased cooperation with the other jurisdictions and law reform bodies, which will result in the best and most appropriate changes being quickly adopted in the ACT.

Mr Speaker, the report proposes a comprehensive review methodology and a six-monthly cyclical process of setting priorities. The goal of the review is to ensure access of the community to the law. This will be accomplished by: Eliminating redundant and irrelevant laws; making excellent legislation which will meet the contemporary needs of the ACT community and business; and focusing and rationalising overall government review effort.

In the first three years of the review program particular problem areas will be identified and eliminated. This would focus attention on particularly badly fragmented laws and New South Wales and imperial laws that are still in force in this Territory. Mr Speaker, this is a significant piece of research which has been conducted by the Attorney-General's Department. I congratulate the officers involved and commend the report to the Assembly. I present the following paper:

ACT law review program - Ministerial statement, 16 October 1991.

I move:

That the Assembly takes note of the papers.

Debate (on motion by **Mr Jensen**) adjourned.

### **NON-GOVERNMENT SCHOOL FUNDING Discussion of Matter of Public Importance**

**MR SPEAKER:** I have received a letter from Mr Stevenson proposing that a matter of public importance be submitted to the Assembly for discussion, namely:

That the action taken by the Government to cut funding to three non-government schools is inequitable, unwarranted and reduces freedom of choice in education. It breaks a commitment by the Education Minister to not reduce funding and should be reversed.

**MR STEVENSON (3.31):** The Labor Party in this Assembly has decided to drastically reduce funding to certain non-government schools. While this is certainly an attack on non-government schools, it is, equally importantly, an attack on the education system. I think we should bear in mind at all times that there are difficulties in paying the high costs of education, particularly for the standard of

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education that people in Canberra are used to. The Government cannot afford to pay for all students attending government schools. Far from attacking non-government schools, we should be encouraging non-government schools wherever we can.

First of all, I will deal with some important points about non-government schooling. Forty per cent of all children in the ACT in high school go to non-government schools. Overall, one-third of students attend non-government schools. Less than 10 per cent, however, of the recurrent costs or running costs of school education relates to non-government schools. Where is the equity in that? There is little support for capital works, for building and development, of non-government schools. That is largely borne by the community that attends those schools, through fees and other ways.

There is a myth that only wealthy parents can afford to send their children to non-government schools, that they are all elitist schools and that they should not be funded equitably with government schools in any way. Unfortunately, that is the way that we are heading with proposals such as that of the Labor Party in the ACT.

Let us look at some of the myths. I think it is true to say that 58 per cent of high-income families send their children to government schools. In other words, a large proportion of those people who could perhaps better afford to send their children to non-government schools send them to government schools. That is their right, and it is one that they should have. Many low-income families save money and undergo hardships to send their children to non-government schools.

**Mr Berry:** Which ones?

**MR STEVENSON:** Which ones? Are you suggesting that there are not any?

**Mr Berry:** No. Which schools?

**Mr Connolly:** Which schools have been affected?

**MR STEVENSON:** The schools that have been affected are the three in relation to which the cuts are taking place, for a start. For Canberra Grammar School the effect is a 50 per cent reduction; for the other two schools it is a 20 per cent reduction. Mr Berry, you will have the opportunity shortly in this debate to make the claims that you make.

**Mr Berry:** I am not making any claims. I am asking you: How many other schools are there, besides the three?

**MR STEVENSON:** You are making claims. I think we should understand that 82 per cent of current Canberra Grammar School children have both parents working. Where is the elitism of that? Where are the wealthy families there, Mr Berry? Let us hear the interjection now. You cannot handle the problem. The suggestion is that the non-government schools have supposedly huge resources. Some of them are well resourced, but I think we should understand equally that the schools are supported greatly in many cases by parents who put in much time and who also support the school in other ways to allow their children and others to have an alternative to the government schooling system.

A very important point that we should make is that non-government schools allow freedom of choice. Any attack on the funding of non-government schools is an attack on the freedom of choice of all parents in Canberra to send their children to other schools. I am sure that when members of the Labor Party speak on this matter they will say that the parents of most children cannot afford to send their children to non-government schools. So, what do they do in answer to this? They lower the funding, causing the fees for non-government schools to be increased, thereby putting those schools out of the reach of even more parents. Where is the justice in that?

The three schools, as were other non-government schools, were guaranteed certain things by the Commonwealth Government. Certain of those guarantees were taken over, if you like, when we formed self-government in Canberra. Let us have a look at what Mr Bill Wood said in discussing obligations that had previously been met by the Commonwealth Government. This particular debate was on 17 October last year, recorded at page 3718 of *Hansard* - - -

**Mr Berry:** Was he Education Minister then?

**MR STEVENSON:** Was he Education Minister then? No, he was not. But does it make a difference when he makes a particular statement prior to having the power to do something about it? Do the standards that he raised at that time go out the window because he was not the Education Minister? Let us look at what he said. He referred to the Federal Government's promise not to close Weetangera Primary School in the next five years. He referred to Mr Kaine talking about that matter and said:

... the parents at Weetangera have the same right that Mr Kaine has conceded to parents at St Peter's school, that right being that this Government should fulfil the pre-self-government commitment by the Commonwealth.

Where is that fulfilment of the Commonwealth commitment now? Certainly, the funding in real terms has been decreasing, it being in fixed-term amounts. But one of the things that the three non-government schools that are currently under attack were able to do at least, though

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there was a decreasing funding in real terms, was plan ahead. These cuts that have just been announced do not allow those schools to do any planning. There should be no change, certainly not this suddenly. You are saying that at the start of next year they are going to receive less funding. How on earth can they fairly plan for such cuts?

What is the goal of the ALP Government in making these cuts? Certainly, we would all say that we have as a goal good educational standards for children in the ACT. The claim has been made by many people, certainly by some eminent speakers yesterday, that the ACT Labor Party goal is an ideological one; it does not have to do with high standards in education or equity. Mr Berry nods.

**Mr Berry:** It is true.

**MR STEVENSON:** It is true. I am sure he will have the opportunity to explain it.

**Mr Berry:** That is what politics are about.

**MR STEVENSON:** One would have thought that politics were about representing fairly all people in the community. Once again, it is an attack on freedom of choice. The parents in Canberra will not have the same opportunity as this ideologically-driven move by the Labor Party continues. Do not think for a moment that other non-government schools in Canberra do not think that they will be next; I am sure that they do.

Let us have a look at the ALP policy commitments. What has the ALP, specifically Mr Wood, said in the past? What has he said about funding of non-government schools? Let me quote. On 27 February 1989 the present ACT Minister for Education wrote to the president of the Association of Parents and Friends of ACT Schools and said:

The ALP will maintain all existing funding arrangements.

Tell me how the 50 per cent and 20 per cent cuts to three non-government schools equate with maintaining "all existing funding arrangements". At a meeting at the Albert Hall in May 1990, at which many of us were present, the current ACT Minister for Education said:

A Labor Government in the ACT will continue the financial commitment to non-government schools. This support will be in accordance with the Federal Government's needs based criteria and will be maintained at present levels in real terms.

What happened to that commitment? It is all very well saying that you have maintained the commitment, but I suggest that 50 per cent and 20 per cent cuts show that you obviously have not.

So, what do we need to do about this? Let us look at the impact. The suggestion by Mr Wood in the budget Estimates Committee hearing, that there will be no appreciable impact on the schools themselves, is certainly not borne out either by the schools or by looking at the presentations that they have made. The suggestion that there will be no immediate impact on government schools would be highly debatable if students were forced to go into the government schooling system. Hardships will be created for some people. One thing that it certainly does is reduce freedom of choice.

What action should be taken? The three schools have asked for government funding to be guaranteed for the 1992 school year, at least. Then there should be fair and adequate consultation with the schools concerned. Once again, in the budget Estimates Committee hearing Mr Wood said that there was consultation. I suggest that the only time you can have consultation is when both parties know that it has occurred.

The decision to cut the funds should be reversed; there should be genuine consultation with the schools concerned and any other non-government schools that may be targeted for the future; and the call by those schools for an independent inquiry to look at all the funding arrangements of non-government schools should be answered. We should be encouraging non-government schools. We should be encouraging the right of parents in Canberra to have their children attend the schools of their choice. Indeed, we should have a fair go for non-government schools and all Canberrans.

**MR WOOD** (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (3.43): Madam Temporary Deputy Speaker, the funding of all schools in Canberra - and that certainly includes non-government schools - is a matter that this Government has taken very seriously. I am sure that all members of this Assembly recognise the importance of the issue. You would know - you would certainly expect - that in our budget deliberations this was a matter to which we gave the most careful consideration. No decisions were taken lightly, and that includes the decisions concerning these schools that are now under debate.

As with all the programs that we considered in relation to all the ramifications of the budget, we considered closely the impact of any cuts. We examined the pros and cons and made our decisions as best we could in the circumstances. All members would know the very difficult circumstances in which this budget was framed. It was framed by the Labor Party, in this instance, as you know, because of the fall of the previous Government. But we were all facing the same circumstances, and we were all taking certain measures to deal with them. I think it is worth reading into the record what Ms Follett said in her recent budget speech:



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No State or Territory has ever before faced a collapse in Commonwealth support of the magnitude that the ACT has this year.

She went on:

Commonwealth general purpose and special assistance, which represents half of our total recurrent and capital income, has been cut by 8 per cent in real terms. This contrasts with maintenance of real terms funding to the States.

And further:

Leaving aside the \$53m previously withheld by the Commonwealth, the reduction in the ACT's general revenue funding base is almost 20 per cent in real terms in a single year.

That is the framework in which this budget was made. We all recognise the constraints that were imposed upon it, and I believe that that has been accepted in this Assembly. I think the Assembly has acted accordingly.

This matter has not been debated until today. I think it is eight - or is it nine? - sitting days since that obviously authoritative leak was first reported in the *Canberra Times*, which brought a torrent of questions from the Opposition, none of which referred to this matter until Mr Humphries asked a question on the Thursday of that last sitting week. A question was asked yesterday by Mr Stevenson.

We have had two questions and, until Mr Stevenson raised this today, no debate on it as a matter of public importance while on a number of days there has been no MPI at all. There has been ample opportunity for debate and questioning in this Assembly. I think it is fair to say that that reflects the acknowledgment by members of this Assembly that the circumstances are difficult and that the Government needed to take strong action.

It is interesting that it was Mr Stevenson who proposed this measure today. It was not the shadow spokesperson from the Liberal Party or the Residents Rally. To the best of my knowledge, they have not proposed this matter; they are now following the lead of Mr Stevenson, the campaigner for all sorts of weird issues in the ACT and elsewhere. Mr Humphries is now following him and supporting him in this debate.

I repeat that I believe that that is a recognition by members of this Assembly that the measures that we took were understandable, at least. You know; you have seen it. You have been at the Estimates Committee hearings where you raised this matter, as you should have done. You know that virtually all programs in all areas have been cut. You know also that government education was cut and that non-government education could not be excluded from the cuts.

I have not heard anybody in this Assembly say that we needed to spend more money in any area. So, cuts were inevitable because of the circumstances. The question was: How were those cuts going to be made? Nothing is more certain than that, whatever government was in power, they were going to be made.

I have been down this path in the Estimates Committee and elsewhere, and it has been clearly established in print and acknowledged that the forward estimates of the former Government indicated a loss in a full year of \$1.95m from the non-government schools sector. There is no question about that. Mr Humphries has acknowledged it, although the two members of the Liberal Party sitting opposite would prefer to claim that it would not have worked out quite like that in the end; but that was clearly their plan. They were going to take \$1.95m off the cost of the whole of the non-government sector.

The ALP came in and considered that it was unjust. We considered that it was too much to take off the non-government sector, that it was too severe an impost altogether, and we looked at what could be done. The Humphries model proposed a most severe impact on schools that could least afford it.

**Mr Humphries:** That is rubbish!

**MR WOOD:** It is not, Mr Humphries. You were going to impose the most difficult circumstances on low category schools - schools down to category 10. They were going to face an enormous increase in fees to cover your proposals and, might I say, the proposals also of the Residents Rally which was part of your Government.

**Mr Humphries:** Scaremongering; that is what it is called.

**MR WOOD:** It is there in black and white, Mr Humphries. You will stand up in a moment, I expect, and try to obfuscate and move around it; it is, nevertheless, what happened. Not surprisingly, the ALP reviewed this matter. We reviewed it at the request of all the non-government schools. We were not able to meet the requests of all the groups. Because we are the Labor Party, because we have an interest in schools that are neediest, you would not be surprised that we acted to restore funding to schools that needed it.

We returned that amount of money to the non-government schools sector and confirmed that the money that came in a separate parcel from the Federal Government for award restructuring would also be matched on a 1:2 basis, the same formula. To my knowledge, at this stage only one other State has done that, although some may follow. That is also of very significant assistance to schools in the non-government sector. You would not be surprised that

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that is the step that the Labor Party took to look after the ordinary school, the ordinary person, in contrast with the Liberal and Rally proposal to look after the better-off schools, which would have been the impact of what they were going to do.

**Mr DUBY:** That is bizarre!

**MR WOOD:** Mr ex-Finance Minister, you ought to have a look at the impact of the proposals to which you agreed. You will see that what I say is correct. There has been some mention of the word "ideology", that this is ideologically based. Mr Berry indicated that we do have different philosophies.

**Mr KAINE:** He indicated that this was an ideological decision.

**MR WOOD:** It was, in the end, a difference of philosophy between the Liberal-Rally model of looking after those who are better off and the Labor Party philosophy of looking after those who have the most need. I do not think you should be surprised at that approach.

**Mr HUMPHRIES:** The most votes is what you are after; forget the most need.

**MR WOOD:** No, we considered this purely in those terms of social justice, which some people on that side of the house either do not understand or deliberately misuse. We do not like to take these decisions. If we had had ample money coming through, if we were in different circumstances, if it was not as tough this year as it was when we framed the first Follett budget, we may well have maintained that cushioning, that bonus, that concession; but the circumstances prevented that.

Let us look at the impact on those schools, which we would prefer to have avoided. It is certainly not as disastrous as it would have been to category 10 schools, Mrs Nolan, as I am sure you are aware. On the information that I have, the increase in fees at Canberra Grammar School will be \$202 per primary student; at secondary level it will be \$285. There will be about a 5 per cent increase in fees if it is to be worked out through fees. There is no necessity, I believe, for that to happen. At the Girls Grammar School, on the figures that I have, because fees vary across year levels it averages \$77 a primary student and \$123 a secondary student, and that is the case also for the AME School. At Canberra Grammar that is taken in the context of fees that are already \$5,000 a year. That is the impact, and it is an impact, I will acknowledge.

At least two of those schools may well be in a position to absorb a great deal of the cost, with no need to pass it on to the parent community by way of fee increases. I do not have the close details of their funding and their own financial arrangements. That is the level of it; I

acknowledge it, and I can justify it in the terms that I have often repeated, that it is less of an impact than it would be for the schools that Mr Humphries was targeting. I believe that it is, in those terms, a sustainable and supportable decision.

The impact on other schools would truly have been catastrophic. If you defend, as is your right, those three schools, at the same time you should tell me how you feel about what you were proposing to do about those other schools. How would you feel about taking close to \$2m out of that entire non-government sector when we are proposing to take a quarter of that amount out of that sector, albeit from a much smaller group of those schools? What were you going to do for the 37 other schools in the non-government sector? You certainly do not want to stand up here and support those schools; that much is clear.

The hard decisions have been taken. You were prepared to take harder decisions or tougher ones, at any rate, by taking \$2m out of that system. When you stand up and respond, if indeed you do - and you are doing so most belatedly, as I said at the outset of my speech, in response to Mr Stevenson - tell me about those 37 other schools.

**MR HUMPHRIES (3.59):** We have heard the usual tired arguments come out of the Minister. They are no more convincing now than they were in the Estimates Committee. I am disappointed about the extent to which the Minister is running arguments which have to be described as a bit below the belt. He began by saying that the proponent of this MPI today - that is, Mr Stevenson - is a crackpot and that therefore the argument itself must be invalid. That is obviously playing the man rather than the issue, and it is disappointing that someone like Mr Wood is doing that.

He is also suggesting, quite mischievously, that there has not been very much debate on this matter in the precincts of this place. That statement could be made only in the earshot of people who did not sit through the Estimates Committee hearing last week, when Mr Wood was grilled for over an hour on his Government's plans, or lack thereof, for promotion of non-government schooling. He has also trotted out, for at least the fourth or fifth time, the tired old argument about what the Alliance was proposing to do in this area, which has been comprehensively knocked over, and he does not have the decency to acknowledge any of the platforms that he has stood on for the last few weeks.

I will state once more for his benefit, although he has left the chamber, and for the benefit of the record what the Alliance was proposing to do. It was our philosophy, right or wrong, that if cuts were to be made in education they should be made proportionately across both sectors, that both government and non-government education should experience the cuts at the same levels. That was our

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proposal; that was our commitment. It was a kind of rough justice; but it was, we believe, at least basically just, and that is what we decided to do. As history records, the Alliance Government was unable to proceed with the closure of a number of schools and, as a result, the amount that it expected to save, both in the last financial year and in the long term, from its government school sector was very greatly reduced. It follows that the projections for equivalent savings in the non-government sector, similarly, would have to have been reduced.

In terms of the commitments that I made to this Assembly on several occasions about the nature of the previous Government's approach to these matters, there is no question that, had it stayed in office, it would have been able to proceed with cuts of the order of anything like \$2m to non-government education. That is simply not possible.

**Mr Connolly:** You had it in your forward estimates. You were caught out.

**MR HUMPHRIES:** Ms Follett and others sat in this place and heard me say time and time again that we would cut equally in the government and non-government sectors. It must follow that if we did not make those cuts in the government sector - we were not able to close the schools that we proposed originally to close - we could not make those savings in the non-government sector.

**Mr Connolly:** You were still trying.

**MR HUMPHRIES:** No, we were not still trying. We made a clear commitment in this place. You did not like that promise. You somehow prefer to think that we should have made non-government schools pay a bigger share. You certainly did not accept what we said, but you heard us say it. That was the basis on which we proceeded and on which we would have proceeded had we stayed in office beyond 6 June.

We have debated this issue extensively in the last few days. It is worth remembering that this Government has so far put up no sound justification for its actions. Basically it has said, "We have to make cuts. Non-government schools are getting funding that we do not consider to be appropriate; we are going to cut them". That is about it. There is no justification, no philosophy, no question of how one promotes a balance between government and non-government education in the Territory. None of that is present. They are just saying, "We can see some easy money for the Territory. We are going to grab it. We do not care how it affects the schools or the students concerned". That is a repugnant kind of philosophy with which to approach this delicate matter.

The Labor Party, Madam Temporary Deputy Speaker, is playing one sector of the community off against another, in a way which it accused the Alliance Government of having done last year. It is playing off what it calls the rich part of the non-government sector against the poor part. Mr Wood put his finger on the button very cleverly yesterday when he said, "Of course, if I had extended these cuts to the whole non-government sector, there would have been 10 times as many people out there today" - that is, yesterday - "protesting against the Government's actions". That is what it is all about; there are more votes in saving that larger non-government part of the sector than there are in saving the three schools whose funding has been most severely cut.

Let us forget this notion that it is socially just to be proceeding against the so-called rich schools. Many parents - I know many of them - who send their children to those schools are not rich. It is a travesty to describe them as rich. They work hard and save hard to get their kids to those schools because they want a better education for their children and they believe that they can provide that at those schools. That is why they send their children to them. Saying that those parents are rich shows gross disrespect for them. That is a gross distortion of the facts.

**Mr Connolly:** We have never said that they are rich parents; we have said that they are rich schools.

**MR HUMPHRIES:** Here is the distinction - they are not really rich parents; they are rich schools. They may be rich schools with poor parents sending their children to them, who cannot afford to pay any more, who already pay as much as they can in many cases. That is a good enough argument, it seems to me, for this Government to review the drastic and unwarranted nature of its attack on those schools.

Let us be clear, Madam Temporary Deputy Speaker: This Government's decision flies in the face of its own promises last year, which it inherited from the Federal Government and which it said it would not break, which it said it would uphold. The difficult thing about this budget decision is not so much that it is going to remove the cushioning - that in certain circumstances might be justified - but that they have done it so quickly, without consultation and without justification to the schools concerned.

They have said to those schools, "You have had a promise you have been relying upon, and you have planned for it. You have made commitments on the basis of what you expected to get from the ACT Government, based on those Commonwealth promises which we, the Labor Government, renewed. You have

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made those commitments, but we are going to pull the rug out from underneath you. Forget the promises we made; you are going to go to the wolves right now". That is disgraceful, Madam Temporary Deputy Speaker; it is absolutely disgraceful.

This Government deserves to be condemned for its lack of consultation with the school communities concerned. We heard that this Government consults. We were told that it talks to people about what it is going to do. We were told that it had consulted the non-government sector about these cuts. Madam Temporary Deputy Speaker, that is baloney! This Government discussed, in the vaguest and most general terms, the issues facing it in terms of having to reduce expenditure overall, and perhaps in relation to non-government education as well.

Then, after the budget, it said, "We have made up our minds. We will not be swayed on this matter; discussion with us is pointless. We will see you as a matter of form, to hear your objections as a matter of formality; but think again if you imagine that we are going to change our minds". When was the consultation? The decision was announced, and the door was closed immediately after that. Where was the consultation? There was none, of course. Do not give us this baloney about being a government that is open and consultative. That little lie went out the window long, long ago.

Let us also address this point that the Ministers are repeatedly relying upon across the board, to do with the challenge that the Territory is now facing. We heard Mr Wood restate the statement made by Ms Follett in her budget speech, that no State or Territory has faced a collapse in Commonwealth funding as severe as the one that the ACT has faced. That is quite true; we have faced a very severe problem in the ACT. The Minister for police said at a meeting last week, I think, that everybody has to take their share of cuts; we have to spread this load across the board; we have to deal with these matters equitably across the board. There is a great point in those statements.

I want to know, though, Madam Temporary Deputy Speaker, why those comments were not being made last year when the Alliance was dealing with the same problem. Why were we not given the credit for having faced those problems in the same way? Why were our attempts to find some way out of the Territory's fiscal nightmare not acknowledged or supported by the former Opposition which is now in government? Of course, they were not interested in those arguments then; they were attacking them. The arguments were irrelevant then to that Opposition. They are using them now out of convenience, because they are in government; that is the simple fact of the matter.

They would not even acknowledge that there was a problem last year. Ms Follett would not even agree to the concept that a serious financial problem was facing the Territory. Even before her budget came down I think the best she could say was something to the effect that we had - - -

**Mr Kaine:** The problem was not ephemeral.

**MR HUMPHRIES:** That is right, that the problem facing the Territory was not ephemeral. That is what she had to say then. Now, rather more dramatic language is used about the problems facing the Territory as explanation as to why we have to make these cuts to non-government schooling. It is too late.

**Mr Duby:** Remember how she would fix it - a nip here, a tuck there?

**MR HUMPHRIES:** That is right; a nip and a tuck would solve the problem. She certainly nipped and tucked her way into the non-government education budget. She certainly has done a lot of damage there, and it has not been, I think, described as nipping and tucking.

One last point, Madam Temporary Deputy Speaker, is that this is not socially just. It is not socially just to take a school that receives one-tenth of the funding of other government schools in the Territory and further reduce its level of support from the Territory. The parents of children at those schools do not deserve that, but that is what they are getting from this Government. For goodness sake, reconsider the foolish things that you are doing.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.09): Madam Temporary Deputy Speaker, there is a lot of stuff and nonsense being put about in this debate by Liberal Party spokespersons and other people who are whipping up hysteria on this issue. The first one, and probably the best one, is the impression that Mr Humphries gave in his last statement, that these poor schools are terribly hard done by, that we have taken away all their funding, that we are throwing them to the wolves.

How many people in Canberra realise how much money this Government is now providing to these schools?

**Mr Humphries:** Less than it was before; that is for sure.

**MR CONNOLLY:** To Canberra Grammar School it is \$927,290 and - wait for it - 12c.

**Mrs Nolan:** How many children go there?

**Mr Humphries:** That is the lowest funded school in the country.



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**MR CONNOLLY:** That is what the taxpayers of Canberra are paying. You are trying to create the impression out there that we have taken away all their money.

**Mr Jensen:** We all know the story about statistics, Terry - lies, damn lies and statistics.

**MR CONNOLLY:** But they are still getting that sum of money.

**Ms Follett:** On a point of order, Madam Temporary Deputy Speaker: I think the degree of interjection ought to be brought to a halt.

**MADAM TEMPORARY DEPUTY SPEAKER (Mrs Grassby):** Order!

**MR CONNOLLY:** The other staggering piece of hysteria here is the enthusiasm from the Alliance, and certain spokespersons, for the AME School - a school of 180 students and one that, if it were a government school - - -

**Ms Follett:** You would have closed it.

**MR CONNOLLY:** Dr Kinloch would have stood in the joint party room and moved a motion to close it. This is a school of a size that you would have closed if it were a government school. So, you have suddenly changed your spots.

Mr Humphries has changed his spots more than anybody else, because he is the man who, in the forward estimates, was going to take nearly \$2m out of the non-government schooling sector. This Labor Government, committed to social justice, despite the extraordinarily difficult budgetary situation that we found ourselves in, reversed that decision when it came in. This Labor Government did not proceed with those cuts. The community ought to know what those cuts would have meant. They would have meant that \$175,000 would have gone from Marist, Mrs Nolan; \$139,000 would have gone from St Edmund's; \$169,758 would have gone from Daramalan.

**Mr Humphries:** Scaremongering.

**MR CONNOLLY:** Where else would the \$2m have come from, Mr Humphries? And \$1,101,000 and a few odd dollars would have gone from the Catholic Education Office for general funding across the range of smaller parish schools.

Madam Temporary Deputy Speaker, this is the man who was going to make that cut to the non-government schooling sector. Those dollars were restored by this Labor Government, by this Education Minister and by this Treasurer. We are proud of what we have done on this, and we will stand up to any scrutiny. The attempt has been made to suggest that this is an attack on the overall non-government school sector. This schedule of cuts that would have occurred under Mr Humphries' Liberal Party budget was an attack on the overall non-government school sector. Mr Wood has taken funding off three schools.

Yesterday at the rally for those three schools, the cat was well and truly let out of the bag on one aspect of this. There were statements made that I think were shameful, and they were made, appallingly, by the Bishop of Canberra and Goulburn. Bishop Dowling should be ashamed of himself because he attacked the general Canberra community. He did it in two ways, the former less shameful than the latter. I will deal with the first one first. That was when he said that these schools were striving for excellence but that they were being punished. The implication in that clearly was that all other schools are not striving for excellence. That is an indirect attack on all other non-government schools and the government schools.

But let us take the direct attack on the whole of Canberra, on the children of Canberra who do not go to these three schools. Bishop Dowling said:

... you might as well give up and just join the general hoi polloi ...

What does "hoi polloi" mean? It means the common people, according to the *Macquarie Dictionary*. But it gets even better. In the thesaurus "hoi polloi" means multitude, plebs, small fry, rabble, cattle, doggerly, dregs of society, gutter, herd, mob, raff, ragtag and bobtail, scum, the great unwashed.

**Mr Humphries:** On a point of order, Madam Temporary Deputy Speaker: I take great exception to the comments that Mr Connolly is making about a leading cleric in this town. The comments that he is making are utterly disgraceful. Bishop Dowling has no seat in this Assembly and cannot defend himself here. But the comments that Mr Connolly is making deserve to be rebutted. I ask you to direct Mr Connolly not to continue to make those comments, and to withdraw them.

**MADAM TEMPORARY DEPUTY SPEAKER:** I disagree with you, Mr Humphries. He is quoting, from a dictionary, what a word means.

**Mr Humphries:** He is putting words in the bishop's mouth, Madam Temporary Deputy Speaker.

**MADAM TEMPORARY DEPUTY SPEAKER:** I understand from a tape that "hoi polloi" is exactly the term that was used. I do not think there is a point of order.

**MR CONNOLLY:** Madam Temporary Deputy Speaker, page one of the *Canberra Times* this morning states:

The message appeared to be -

and then it quotes Bishop Dowling -

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"it's not worth doing what you're doing, not worth setting up something that's of excellence in the community ... you might as well give up and just join the general hoi polloi and let things flow along without any considerations of trying to do things well".

I think it is a shameful thing that a leading cleric, as Mr Humphries said, a man who should enjoy the respect of the whole community, would get up and address a rally and call the ordinary students of Canberra, the children of all Canberra citizens who do not attend Girls Grammar or Canberra Grammar or the AME School, the hoi polloi. Madam Temporary Deputy Speaker, I went to state schools; I am proud to be part of the hoi polloi. Most of Canberra, in Bishop Dowling's view, is part of the hoi polloi.

The attempt was made to say that this is an argument about elitism; it was slammed by the bishop. It was an appalling thing for him to say, to basically attack the entire community of Canberra who do not attend these, as Mr Wood said, rich schools. The precise financial standing of some of these schools is unknown because they have significant trust funds that are not available for public inspection. But Canberra Grammar gets \$927,290.12. But this bishop has said that if you do not go to those schools, if you are not part of those schools, you are the hoi polloi - the common people, the ruck, the herd, the ragtag, as that phrase is termed. For a bishop to get up and insult the Canberra community in that way is appalling.

Madam Temporary Deputy Speaker, this Labor Government has not mounted an attack on the non-government school sector. That is what Mr Humphries would have done. This Government has removed the cushioning, which Mr Humphries said in his remarks today might be justifiable. From the man's own mouth, what we have done is a justifiable step - removing the cushioning, and the cushioning only. We continue to fund these schools extensively, and we have put back what was going to be a substantial cut to the overall non-government school sector.

Madam Temporary Deputy Speaker, what this Government has done is fully justifiable and fair, by not attacking the entire community. The hysteria which is attempted to be whipped up is unfortunate; but most unfortunate of all was the attack, shown on the front page of the *Canberra Times*, by such a respectable and eminent man, on the general community of Canberra. For a man of the cloth to attack the ordinary men and women of Canberra and their children as just "the hoi polloi" - - -

**Mr Humphries:** That is garbage.

**MR CONNOLLY:** He said that they may as well "just join the general hoi polloi".

**Mr Humphries:** That is garbage.

**MR CONNOLLY:** That is what he said. I agree that it is garbage, Mr Humphries. It is offensive garbage. He said it, and he ought to be ashamed of himself.

**MRS NOLAN (4.17):** I am aware that other members wish to speak this afternoon, so I will try to keep my remarks fairly short.

**Mr Wood:** They have not tried before, have they?

**MRS NOLAN:** I would have to say, Mr Wood, that there have been many occasions when I have criticised this decision. Question time is a rather difficult one in this Assembly. I can produce questions that I have been prepared to ask. On some days I have not even been able to get one question up.

**Mr Wood:** You asked me about Stromlo today.

**MRS NOLAN:** By the time I had a chance to ask a question today, Mr Wood, I was aware that this was on the program for this afternoon. But for some considerable time we did question you in the Estimates Committee last week. That was when I asked the question in relation to your not even having visited one of those schools, the AME School. It is rather difficult to be making decisions about a school that you had not been to, although I am not sure whether you have visited it in the last week. I was very disappointed to see that, as Minister for Education, you made a decision in relation to the funding of a school when you were not fully aware of just what that school was all about.

I believe that the effects of the decision to remove the funding, the cushioning effect, from these three particular schools will be remembered for a long time to come, certainly in terms of the AME School. It may not even be able to continue, and I think that is very serious. We are all aware that budgets are determined for a period of 12 months. To put that in place now, announcing the decision to operate from the beginning of the next school year, is going to make it very difficult for those three schools to budget accordingly.

Mr Connolly quoted a figure of \$920,000, I believe, which he says the ACT Government allocates to the Grammar School. We all know how many students go to the Grammar School, Mr Connolly. It is interesting to note that \$530,000-odd is what has been expended by your Government to reopen Cook and Lyons primary schools for less than 180 students. So, again, I am not quite sure that there is very much equity in that sort of decision.

I will declare my interest. I have two children at non-government schools. They certainly are not at the three schools that have been affected. I have had a concern for a long time for the non-government schools, not only in this city but also in other cities. I have to say that I

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was very embarrassed to find out about the decision in relation to the forward estimates; I was told by people in the community, rather than my colleagues within the Alliance, about that proposal. That really was not appropriate. I do not think the fact that the decision may not have been taken is a very relevant argument in the circumstances.

The other situation that I am very concerned about, Mr Wood, is the discussion paper that the former Government put out, which gave options for reviewing the relationship of recurrent grants between non-government and government schools, and the government school costs and the Commonwealth grants. There were some 28 responses, I understand, to that discussion paper.

Again, as I recall from the Estimates Committee, you said that the review was still being completed. You made the decision in relation to those three non-government schools, knowing that that review was still in process. These reviews cost money; it is a pity that you did not wait until that review was available before you made such a decision. The other thing that worries me is that perhaps there is going to be something in relation to that review that you really would not have wanted to contemplate in relation to this issue.

We are all aware of the guarantees and the promises that you made, Mr Wood, in relation to these particular schools at the Albert Hall. You certainly gave a commitment which guaranteed that funding to those three schools, along with all the other non-government schools, would continue in the same manner as it was continuing then. Unfortunately, that has not been the case.

I mentioned briefly the timing, and I think that really was not given any consideration at all.

**Mr Wood:** What do you want to do about it now?

**MRS NOLAN:** The fact that you did not consult with the school communities and only informed them really shows that the consultation certainly is plastic. You are asking me what I would want to do about it. I have given you my view long, hard and strong on many occasions, Mr Wood. I would not have spent the money on opening the two very small government schools, and you would have had the \$530,000 that you - - -

**Mr Wood:** No, you know that there is no connection.

**MRS NOLAN:** No connection?

**Mr Wood:** That is right.

**MRS NOLAN:** It is interesting to think that the figures are very much the same. As I recall, at some stage or other when I asked where the funding was going to come from for those two government schools, Cook and Lyons, you said, "In a sense, not from anywhere". Now we are aware of exactly where that money came from. It came from the three non-government schools that have now had their funding cut.

It is certainly discriminatory when you see the numbers of students we are talking about here. In relation to the three schools in question, my understanding is that we are talking about some 2,900 students. It was very interesting to hear you quote figures, Mr Wood, in terms of additional fees - for Canberra Grammar of \$202 and \$285, and for Girls Grammar \$77 and \$123. You said that it did not seem to be all that much money. I can assure you that to parents who pay school fees it certainly is a considerable amount of money on top of the fees that they are already paying. I am not quite sure what high school Grammar fees are, but I am quite sure that they would be very substantial and the parents would find it very difficult to have additional fees placed upon them.

**Mr Kaine:** They are about \$3,000 a year already.

**MRS NOLAN:** I think they are probably more than that, Mr Kaine. I think they are probably in the vicinity of \$5,000.

**MADAM TEMPORARY DEPUTY SPEAKER:** Can I have a little order in the house, please?

**MRS NOLAN:** I am not quite sure what they are. The fees that I am paying for a year 11 student are quite considerable, and I am sure that the Grammar fees would be more than that. As I said earlier, there were other matters that I wanted to raise, but I am aware that other members want to speak, so I will leave it there.

Motion (by **Mr Jensen**) agreed to:

That so much of standing and temporary orders be suspended as would prevent the discussion continuing until 5 p.m.

**MR KAINE** (Leader of the Opposition) (4.26): I appreciate the fact that the time was extended. There clearly are other people who want to speak on this issue. It is an important one.

**Mr Wood:** It has been a long time coming. They have stayed out of it thus far. They had two or three times last sitting when we could have had an MPI, and nobody proposed one.

**Mr Humphries:** Madam Temporary Deputy Speaker, could we have some order, please?

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**MADAM TEMPORARY DEPUTY SPEAKER:** Order, please, Mr Wood! We do have a speaker on his feet.

**MR KAINE:** I think it would have been rather unfortunate, Madam Temporary Deputy Speaker, had people not had an opportunity to speak their minds on this subject. It is all very well for Mr Wood to say that they have had plenty of time. The only time for debate of this subject until now in any practical sense has been in the Estimates Committee. There has not been any debate anywhere else. It is time that it was put on the public record rather than in the transcript of a committee hearing. I think the general realisation of everybody except the Labor Government is that the decision was wrong and that it should be reversed - there is no question about it - and they should begin to bow to public pressure.

Madam Temporary Deputy Speaker, some of the members of the Government were quoting from speeches and the like. I would like to read a short quote as well. I quote from the budget speech of the Chief Minister only a few short weeks ago, on 17 September, when she said:

... I do not believe that progress can be made unless social justice objectives are given the highest priority and the community is involved in the process of adjustment.

But then she went on to say:

No matter how strong the rhetorical justification that may be given for particular budget measures, they will not succeed if the community believes that these measures are unjust or unfair.

I repeat:

... they will not succeed if the community believes that these measures are unjust or unfair.

I believe that the community believes that this measure is both unjust and unfair. The Chief Minister also went on to say:

That is why my Government has, once again, sought community input into budget decisions.

One of the reasons why this particular decision is wrong is the fact that there was no consultation. The Chief Minister and the Government obviously consulted with a lot of other people. I have mentioned in another place the fact that they did get some comment, and this was referred to in the Budget Overview, Paper No. 2, which stated that "some people" believed that non-government schooling should be made so expensive through a decrease in ACT Government funding that students would be forced into the government schools and thereby solve the underutilisation problem.

It seems to me that that is the advice, that is the consultation bit, to which the Government listened. It comes back to the little exchange earlier in the debate about whether this is a philosophical question or a question of socialist ideology. Mr Connolly, in his emotional and heated outburst, gave the game away. He is not only against private schools; he is against the church as well, and he made that quite clear. Rather than address the question of the funding of private schools, Mr Connolly spent four minutes of his time attacking the Anglican bishop.

**Mr Connolly:** Because of what he said - calling the ordinary people the hoi polloi.

**MR Kaine:** Lots of people say things in times of emotion and times of stress. I suppose that you will back off next week because you were highly emotional and you did not really mean to attack the bishop. You were quite deliberate about that. That, in my view, was a quite despicable and disgusting spectacle, coming from a Minister.

Madam Temporary Deputy Speaker, this decision is wrong because it is discriminatory. It is wrong because it is arbitrary. It is wrong because it is lacking in social justice. As to discrimination, it singles out these three schools in their category, as compared with all other schools across Australia - disregarding, for the moment, the Territory itself. It puts these three schools on a lower funding basis than any other school in their category across Australia, and this Government talks about social justice.

It is discriminatory because it places these three schools in a worse situation than any other private school in the ACT, and they cannot deny that. It is discriminatory because it places these three schools in a worse position than any public school in the ACT, in terms of funding. So, on any criterion, these three schools are being discriminated against. This is the action of a government that talks about community consultation and social justice.

I said that this decision is wrong because it is arbitrary. These three schools had no prior warning that the Government was thinking along these lines. There was no consultation whatsoever with them on the issue. Once the decision hit the streets and the schools realised their situation and began to protest, the Government told us that there will be no review. This is open government, consultative government, a socially just government, we are told. There is no question that the decision is inequitable and fails the Government's own test of being socially just. There is no doubt whatsoever - Mr Connolly, if anybody, demonstrated it - that it is based solely on socialist ideology; take from the wealthy schools and bring us all down to the lowest common denominator. That seems to be the only basis and the only thrust of this.



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The decision also reflects the double standard - and somebody else referred to this - that last year it was improper for the Alliance Government to set aside an earlier Commonwealth decision that a school in Belconnen ought not be closed. That was a part of their dogma of the day, part of the basis of their argument that those schools should stay open. But it is all right this year to set aside the same kind of commitment from the same Government.

**Mr Stevenson:** Mr Wood is the Minister now.

**MR KAINÉ:** That seems to be the only difference, Mr Stevenson - that what was good last year is not good this year. I am not going to make a judgment about what their position should have been, but they must be consistent. If they hold that it was good last year, then it must, equally, be good this year. Had they agreed last year that a decision made by another government in another place under another set of circumstances some years ago can reasonably be set aside by a government today when the circumstances are different, they could equally argue that today. But they cannot have it both ways.

So, there is a double standard here, regrettably exercised by a Minister for whom, personally, I have a great deal of respect. I cannot understand how it is that he is going along with the Labor socialist radical left on an issue like this, which is of such importance to the community.

Madam Temporary Deputy Speaker, this Government stands condemned for this decision. It has no answer to the condemnation. It has not even tried to answer. It has blustered. It has made accusations against everybody: What the Alliance Government would have done, hypothetically, had we still been in government; and we have had a strong attack against the Anglican bishop. But they have not answered the question as to why they have taken this position. All they have said is, "The decision has been made. We are not going to change it". That is not good enough. I think the reaction is clear and is sufficiently strong for any government to reconsider its position.

I make my position clear, Madam Temporary Deputy Speaker. The Liberal Government, after February, will restore this money, and it will then negotiate with these schools as to what changes can be made in the future in terms of equity and in terms of carrying the burden of financial cuts equally and fairly.

**DR KINLOCH (4.35):** I join with Mr Connolly in being a state school boy. I hope that does not make me biased towards one system or the other. The Rally supports and battles for excellent government and non-government schools and school systems. I would hope that none of us here engaged in this debate would be playing off one system against the other. I am delighted that Cook and Lyons

schools have been reopened; I recognise the costs involved. I do not think anyone here should start trading figures on that careful, thoughtful act that has put two schools back in action, partly as a result of the tremendous activities of their school communities.

What we are seeing here, by contrast, is three school communities - two Anglican schools and the AME School - similarly battling for their rights. I applaud them as much as I applaud Lyons and Cook and Weetangera. Weetangera has often been mentioned in this debate. I want to back and support those three schools just as much as I have supported the others. Mr Connolly, I think, does not fully realise my involvement in that matter.

I especially want immediately to say that there is no way in the world that I would argue for the abolition of the AME School, Mr Connolly. One of the very important things about our government and non-government school system is the range of choices, the flexibility, offered. If the AME School represents anything, it is another alternative, and it should very much be supported on that basis.

The Rally is ideologically committed to a complex system of many kinds of schools for many kinds of students and many kinds of families. We support, of course, above all, the concept of, and the reality of, freedom of choice. I want to stress the words "the reality of freedom of choice". It is not good enough to talk rhetorically about freedom of choice; the reality has to be there. It is no good having rights unless it is possible for those rights to be exercised. I notice that tomorrow we are to debate, are we not, the Human Rights and Equal Opportunity Bill? I hope the Labor Party will recognise that this is a matter that ought to be of concern in the education debate.

In the case of non-government schools, whether they are denominational, religious or secular, it has to be possible for a family to be able to make that choice to opt for a Catholic, Anglican, Christian, Jewish, Muslim, Quaker or secular education. That choice has to be there. It is no good talking about freedom of choice if you are going to create economic circumstances that take it away from families.

In the case of Quakers then, as an example with which I am comfortable, the Quaker community needs to be in a position to say to every Quaker family, no matter what its economic circumstances, "We want your children to have the right to attend the Friends School in Hobart. It is your choice, without regard to economic constraints". That is very difficult for us. It is a sacrifice, though, that we are bound to make for all members of our community. Similarly, every Catholic family must be able to place children in a Catholic school. Similarly, that should be the case with Anglican families. Anglican families are not any different. The Anglican family at the bottom of the economic margin has to be able to have freedom of choice to go to an Anglican school.

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I want to say this to the Canberra Grammar School and the Canberra Girls Grammar School - I have been involved with those schools personally and directly for over 20 years: If you do not fight for those Anglican families at the economic margin, you do not deserve to exist. You have to fight for those families at the margin.

So, these schools, whether they be level 1 or level 3 or level 10, need to have the kind of financing which ensures places in those schools not merely for those with solid family incomes but also for families at the margin. That is what I am pleading for. I reject this label of "well-off" schools. Of course, there are some people who are "well off" in the non-government system and the government system. Some families are well off; many, however, are living in a sacrificial mode on behalf of their children.

We in the Rally are very aware of this. On the fifth floor, four of our staff are in jobs in order to keep their children in either Catholic or Anglican schools. That is four people in one small staff. Those are the people we are fighting for. Any move which makes those schools more expensive makes it more and more difficult for families on the margin to make a legitimate free choice. The more you cut back on the Canberra Grammar School, the Girls Grammar School and the AME School, the more difficult then it will be. They will have to put the fees up; people at the margin will have to leave or they will have to find funds from elsewhere.

I am not opposing the obligations of families to make financial sacrifices. Indeed, it may be morally beneficial for families to make those sacrifices. It could be that one of the greatest benefits of the non-government school system is that people do make those sacrifices and that is deep in their hearts. Maybe "well-off" families should be making even greater sacrifices on behalf of other families. But it is not for our Government to play down the possibility of the marginal families to get into these schools with freedom of choice.

I am therefore pleading with you, Mr Wood, and with your party to drop a narrow ideological perspective. That is what it is. It is not a broad-based ideological perspective; it is a very narrow one, which has a certain number of cliches and labels, which says, "Look at that well-off school, rich school. Look at all those wealthy people". What you should be thinking about, Mr Wood, is the families on the margin. Go upstairs and talk to our four staff members and see to what degree they could afford to have their children in the Catholic and Anglican schools they are in unless they had a second job in their families.

I am therefore pleading with you and your party to withdraw actions which make certain schools more expensive than they already are. I re-emphasise Mr Stevenson's comment that this restricts freedom of choice not to "well-off" families - they can send their children to Frensham or Geelong or wherever - but to all the families in Canberra who are on the margin, who are trying to make a decision based on their religious commitment in many cases, families who would like their children to have a Catholic or Anglican education. If there were other religious schools, we should support them too. I do not think it will be long before there will be a Muslim population or a Buddhist population looking for similar schooling. But those people cannot necessarily afford it unless their denominational school has a cushion of funds, out of which bursaries and scholarships can be made.

So. I want to put this view most forcefully to the ALP: I am going to fight as hard for those three schools as I did for the schools last year, especially for Weetangera and later for Lyons and Cook. I am asking that you recognise that and that very, very shortly you withdraw the action that you have taken. Please do not stand there, Mr Wood, defending a Cabinet action that you know is wrong.

**Mr Wood:** Rubbish! What nonsense you are going on with there. Your whole logic is warped here. You want to go back and do a bit of study on the way these systems are developed.

**DR KINLOCH:** I want to put the view that you are consolidating, even forcing, a kind of socioeconomic class division which I hope the ALP, at its best, fundamentally opposes. I oppose that socioeconomic division. I am thrilled to be in this city, in this country, in a hoi polloi country. It is the most hoi polloi country, with the possible exception of New Zealand.

**Mr Connolly:** But the bishop did not want that. He said that we might have to mix with the hoi polloi.

**DR KINLOCH:** I will be saying to Bishop Owen Dowling, a dear man, "Owen, I think you need to restate what you said". So, I ask - not in terms of political point scoring, but as a plea for social justice - that this promised cushioning be maintained. Please go back and look at it again.

I cannot speak about all Anglican parishes, but I can certainly speak about two to which my children went because my wife was then involved with the Anglican Church. I refer specifically to All Saints, Ainslie, and also Holy Cross, Hackett. These are not wealthy parishes. Go and have a look at them. Go and sit there on a Sunday morning in the pew and ask yourself, "Are these people 'well off?'". There are families on the margin in those parishes.

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I want there to be no doubt that any Anglican family from All Saints, Ainslie, has the right to send a son to the Canberra Grammar School or a daughter to the Girls Grammar School. Those schools must take any Anglican child; it does not matter what the family income is. They are in the business of supporting a certain value system, and that value system, for them, is an Anglican system. If they did not support it, then I think, Mr Wood, you would be right to attack them.

I want there to be no doubt that any Anglican family from any Anglican parish has educational freedom of choice. I want to ask Mr Wood whether he feels comfortable about discriminating against Anglican families, ordinary people, in Canberra.

**MADAM TEMPORARY DEPUTY SPEAKER:** Your time is up, Dr Kinloch.

**MS MAHER (4.45):** Madam Temporary Deputy Speaker, I believe that the non-government schools provide a very valuable service to the community. If they were not available and the Government had to take over the running of those schools, I feel that the standard of schooling across the ACT would be depleted and the access to that schooling just would not be as it is now.

What has happened to the Labor Party commitment to maintain the funding to these schools and what has happened also to the community consultation? It was very convenient for the Labor Party to give education a very high priority when they regained government by reopening Cook and Lyons schools. I have no problem with giving education a very high priority, not only for its educational benefits but also for the benefits to the child. As Mr Wood would know, many of the situations that were brought to light in our inquiry into behavioural disturbance among young people involved children with learning difficulties and a low education standard. Education is a very high priority in this community.

One of the reasons that many families come to the ACT is the choice of schools and our education system. This has been restated by the Labor Party on many occasions. Cutting the funding to non-government schools will take this choice away from many families and put an extra financial burden onto other families which, in many cases, are working on a very skimpy budget already so that they can send their children to the schools of their choice.

Not only do these families skimp and save on their own personal budgets to send their children to non-government schools but they also put a tremendous amount of time and effort into fundraising for the general running and upkeep of the schools. Madam Temporary Deputy Speaker, why should these children who attend non-government schools be disadvantaged and discriminated against? They are entitled to the same standard of education and assistance as any other child in the ACT.

**MR MOORE** (4.48): I will speak briefly, mainly because of some of the hypocrisy that I see around me. Let me first establish my position. I have made it very clear that I oppose any cuts at all to education, and that includes these cuts. However, I do think it is entirely appropriate that we increase the level of funding to government schooling. So, I would change the balance between government and non-government schools by increasing government education funding. I notice that the budget papers reveal an actual increase in funding to the non-government sector while there is a decrease in funding to the government sector. It is something that I oppose.

One of the things that I find very interesting is that at one small time in the Estimates Committee, on one afternoon, instead of having the normal scratching for the quorum of three we suddenly had a group of people rushing in, while the television cameras were there, to ask questions about non-government schools and about what is happening with these three schools.

**Mr Jensen:** The same thing happened last year; but it was the other side.

**MR MOORE:** Mr Jensen interjects that the same thing happened last year. I think that is true. I give credit to Mr Jensen, who has been there the whole time for the last three years. I think I would be correct in saying that he has not missed any of it. Granted, he is the chairman. He is doing a good job chairing that committee, I might put on the record.

As far as this particular issue goes, there is only one exception in this house, as far as I am concerned, to the grandstanding on this issue, and that exception is Mr Humphries. The first person to come out and say, "This is wrong. I oppose this", was Gary Humphries. He made his position clear, and it was quite obvious. I do not perceive him as grandstanding. But suddenly others thought, "Oh, this looks like an issue. There are a few votes in this". As in the chook pen - if I can use your metaphor - somebody has thrown down a bit of seed, a few votes for the hens.

I see a great deal of grandstanding on this issue and a great deal of hypocrisy coming from a number of members here, members who were in an Alliance government, members who by their own admission moved for the closure of specific schools, who were keen to close schools down, who were happy to decimate the government education system. Now they are saying, "We should look after all education, but particularly these three schools". Do not mistake me; I have made it quite clear that I oppose the cuts to these schools, but certainly not with the same vigour and energy that we have heard from some people.

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I must say that I am appalled at the sorts of arguments I hear. I was appalled not only by the "hoi polloi" comment, which I understand Mr Connolly has dealt with. I hope that Bishop Dowling will be prepared to apologise to my children, to me, to the friends of my children and to many Canberrans whom he has insulted in that way. Whether he is a bishop or not, that is the reality; he has delivered a significant insult to a large number of Canberrans. I believe that he did not mean it. It perhaps underrides a certain emotional feeling. Nevertheless, if that is the case, if he did not mean it, he ought to be apologising. That is something that I will wait to see.

But the argument that comes out again and again is: What about social justice for our children? What about social justice? The parish priest, Father Kelly, argued that we should have per capita funding for schools. Per capita funding for schools is the antithesis of social justice. What is social justice? That is what I am going to explain to you. Social justice is about equal access. Equal access starts with equal access to food and accommodation. We take care of people, as far as food and accommodation go, through our social security benefits when they do not have that sort of access. We also want to see, in social justice terms, equal access to health care.

They are areas in which we have a great deal of difficulty getting equal access. We probably never will get to a true situation in which we have social justice. But with education we are getting closer, particularly in Canberra, because social justice means that you can give any child, in spite of the wealth of their parents, in spite of the sacrifices that their parents are prepared to make, equal access to the best quality of education.

Why is education so important as far as social justice goes? Education gives people the life tools to be able to move from one level of society to another. That is why education is absolutely critical, and that is why social justice and access to the very best education is so important. That is why children whose parents are not prepared to make those sacrifices that some parents have made or those whose parents simply do not have the wherewithal to do it - the children who, for whatever reason, are in the public education system - have to be able to go into a public education system that is just as good as any other education system, government or non-government, within this Territory.

We have it, and by golly we are not going to let go of it, because it allows all children access to any equally good education system. I would argue that in lots of cases the government schools that we have here are better than the non-government schools. You bet they are, and we are going to keep them that way. Because we have that situation, that is providing access to children whose parents either do not care or cannot afford it or have decided that it is a good education system. That access is what is critical, and that is the issue of social justice.

If you allow per capita funding, that will not allow that social justice. Under per capita funding there would be a great division between parents who are prepared and who will be forced to make the sacrifices and those who do not care or who cannot afford it and who leave their children not having that access.

That is what social justice is about, and that is what it is about as far as education goes. I think that is a most critical issue for us to deal with, even though I understand the emotional feeling of people who have just had a major cut in education. I have made it quite clear that I do not advocate it; I do not agree with it.

Even though that is the case, the result of what they are trying to achieve will go much further if we allow it to, and it will be a great disincentive, a great reversal of a social justice system that we have now. The most important and most critical element of that social justice is giving every child, independent of their parents' attitude or wherewithal, the access to the tools of life which they get through education.

**MR JENSEN (4.56):** I will make only a few general points on this issue, and they relate to the need for social justice and equity. Members present at the Estimates Committee will recall the series of questions - and it is unfortunate that the Minister is not here in the house at the moment - -  
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**Ms Follett:** He is listening.

**MR JENSEN:** Good; I am pleased to hear that, Ms Follett. I refer to the series of questions in relation to the application of the formula on which the ACT Government allocates its portion of government funds for non-government schools. I understand that all the States have abandoned the use of the Federal ERI formula which categorises schools for the purpose of the allocation of Federal funds. It would seem that a number of inequities have crept into that system over time.

It is, I would suggest, most unfortunate, as has already been alluded to, that the Minister has chosen to make this decision before a review, which was commenced under the Alliance Government, has been completed. But, when Mr Wood was asked whether he was prepared to reconsider the use of the formula which has been so discredited and which is no longer used, it was not really clear to me and, I am sure, to other members whether he was prepared to consider a change.



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I wonder whether the Minister would be prepared, at some stage or other, to give an undertaking that he will return the level of funding to all non-government schools to a more equitable basis rather than hide behind - and that is effectively what he has been doing - the formula which has for so long been discredited. It is most interesting, Mr Speaker, that all the other States have long since abandoned the use of this formula. That was why, under the Alliance Government, it was proposed to seek a re-evaluation of that formula. That was being done in consultation with the non-government sector.

This leads me to another area of hypocrisy on the part of the Labor Party. We heard many times, over the last year, about promises given by the Federal Government to government schools in relation to their future. However, it would seem that, since they have the reins of power, there has been a difference in attitude to promises given, in writing, by a Federal Education Minister - a Labor Minister to boot - that there would be no immediate change, that it would be phased in over a period.

The major difference is that, in the case of the government school sector, some schools were going to be closed, whereas in this case no schools are going to be closed; they are just going to have their funding changed overnight without any real chance to enable them to re-establish their budget. That is what the negotiation and discussion were all about - to revise and review the formula that was being used.

The result of the decision could well mean that the AME School, for example, may have to close because of the considerable reduction. I wonder whether the Minister will review his decision.

I also recall a conversation with a mother at the Tuggeranong Hyperdome last Saturday. She advised me that her family had tried both government and non-government systems and had not been satisfied. They had decided to exercise their freedom of choice and seek a place at the AME School. But the rise in fees caused by this decision would not allow them to do so. Freedom of choice, Mr Speaker, is very important and something that the Rally fully supports.

One of the things that used to really annoy me, as president of a P and C in a public school, was the occasions when a parent - - -

**MR SPEAKER:** Order! The time for the discussion has expired.

**HOSPITAL BED NUMBERS - SELECT COMMITTEE**  
**Appointment**

Debate resumed.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (5.00): I move:

Omit "Government's, substitute "Board of Health's".

The effect of the amendment is to ensure that this motion at least makes some sense. As the Minister clearly stated, it is not the Government's proposed reduction in bed numbers; it is the Board of Health's reduction. If the amendment is agreed to, this will still be a political stunt, as was made abundantly clear this morning; but at least it will be a political stunt that uses accurate terminology, which is some improvement. If you are going to muck around on a stunt, you may as well get your basics right. I commend the amendment to members if they want to try to make this motion have some sense.

**MR HUMPHRIES** (5.01): I oppose the amendment because I consider that it indicates quite falsely that the Government has no connection with these bed closures. Any Minister worth his salt - I do not know whether Mr Berry puts himself in that category - would certainly be consulting with the Board of Health about the nature of the cuts being proposed. In fact, the Government would have a very extensive role in considering whether cuts being made by the Board of Health were commensurate with the necessity for cuts in the health area and, indeed, whether they were in line with government policy.

This Government talks a lot about its policy generally and particularly with respect to health. One of its policies seems to be that there should be an accessible and affordable hospital system. It seems to me that the Government would have a considerable amount to say on issues such as bed closures, waiting lists and the like. I have no doubt whatsoever that if there were problems, if unacceptable steps were taken by the Board of Health, the Minister would be stepping in. In fact, the Minister indicated that that was generally the policy of the Government when he spoke to the Estimates Committee last week.

The Minister said, correctly, that the Government would step in to prevent steps being taken by the Board of Health that the Government considered would be deleterious to the general state of health services in the ACT. Those were not the words he used; they paraphrase the words he used. If that is the case, he cannot divorce himself from the policies of the board. He cannot pretend that the board has no connection with the Government's policies. Of course it does. The board operates within the parameters of government policy.

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I would accept an amendment which removed the word "Government's". I would not object to that, but I think it would be unreasonable in the extreme to lump that on the Board of Health. It is not simply the Board of Health's responsibility; it is the Government's in at least equal part.

I consider that the Minister gives only part of the truth when he lays the blame on the Board of Health. The fact of life is that the Minister has to accept that he lays down the rules under which the Board of Health operates. He is the man who sets the terms of operation. He is the man who lays down the budget. He is the man who ultimately makes the Board of Health answerable to him. That is the situation.

Mr Berry does not like that. He wants to be able to blame the board. He wants to be able to shift the blame away from the Government, particularly when he knows that there is a risk that in a few months' time we will be facing the same sorts of problems that have beset different governments over the last two years. That is a matter of the most profound regret.

Mr Berry, sensible to the damage done to both former governments, would like to be able to distance himself from the damage that has been inflicted by those budget blow-outs. That may be the case; he may wish to do so. But he cannot avoid his responsibilities under the legislation. Quite clearly, his responsibilities extend to ensuring that the board operates properly and within the terms of government policy. He cannot and will not be allowed by this Assembly to get away with the concept of blaming the board for decisions that are basically the responsibility of his Government.

Let us be clear about something. The board would not be cutting bed numbers if its budget had not been reduced. It is that decision, and that decision alone, which has led the board to take this step in order to comply with the Government's policy. It is quite unreasonable, in those terms, to expect the board now to wear all the blame if that decision leads to suffering and hardship within the system, and ultimately, because it cannot be done, to a further blow-out in the health budget. I do not support this amendment; but I would support a modification of the amendment to take out the words "substitute 'Board of Health's'".

**MR MOORE (5.06):** I think the debate on the amendment moved by Mr Connolly is really about political point-scoring. I would certainly prefer to take a less churlish approach and accept Mr Connolly's amendment. I think the task of the select committee is much more important. I indicate that I will support the establishment of this select committee.

The work will require a great deal of dedication. Those of us who are working on one or two or three committees already will find that the workload for this committee will be difficult. Other demands made on members at this time will make it particularly onerous.

I foreshadow an amendment to add a new paragraph (6): "The Committee may examine other related matters which it considers should be drawn to the attention of the Assembly". It is very important to understand that a committee looking into the issue could well come upon an issue that has not been raised. I point out that we are talking about bed numbers, and the amendment refers to related matters. If there are any other related matters, it is important that the committee have enough room to move in making recommendations.

Since the committee has such a short time before the reporting date - some six weeks, I think - it is quite clear that it cannot go into any huge dissertations on whether or not there should have been another hospital or something like that. That would be entirely inappropriate. However, my amendment makes good sense. I think such a provision should be an almost automatic inclusion for any select committee, perhaps with the exception of select committees established to look into specific legislation.

It will be difficult for the three members of this committee to get down to the task and do it. It is very important that the committee consist of no more than three members. In the committees I work on, those with three members are the ones that work the best. Those three members should come from as broad a spectrum as possible. I think the best result would be a Labor member, a Liberal member and one other. Because of the amount of work involved, I wonder whether Mrs Grassby will be able to put in the time, since she is the only Labor person available. One of the great disadvantages of having a minority government with only five members is that these tasks are very difficult.

**Ms Follett:** We are going to fix that.

**MR MOORE:** I suppose the only reply to that is, "Not at the rate you are going". However, I think you have a far better chance than Trevor Kaine's claim to eight members after the next election. We will all look back rather whimsically at the various claims we have made. Gary Humphries would like to up the ante a little for the Liberal Party. They think they will get nine. I admire his courage in making such a prediction. Mr Speaker, for those reasons, I support the establishment of the select committee.

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**MR JENSEN (5.10):** I want to speak very briefly on this. I think it would be appropriate that we kick all these amendments into touch, possibly with the exception of Mr Moore's, but specifically the amendment proposed by Mr Connolly. If we deleted "Government's" from the motion, there would be no argument that the committee has a requirement to investigate and consider all the matters raised. In the Health Services Act, No. 62 of 1990, section 6(3) says:

The Board shall perform its functions in accordance with any directions given by the Minister.

So, it is the Minister who effectively drives and directs the functions and operations of the board. The board has certain powers to do things, but it is the Minister who has the overall responsibility. As has already been said in this place on a number of occasions, it seems to me that, both here and in the Estimates Committee, listening to Mr Berry answering questions, he is really trying to hide behind the board. Mr Berry has said to the Board of Health, "Here is an amount of money. That is all I am going to give you. There is no more. Now, you do it".

**Mr Berry:** You have got it wrong.

**MR JENSEN:** That is certainly the way it has come across. On that basis, it is not the Board of Health that is making the cut; it is effectively Mr Berry, as Minister, who was responsible for developing that allocation of funds for the operation of the health services budget in the ACT. It is his responsibility and his alone. He cannot hide behind the board. The buck stops with Mr Berry, not the Board of Health. Behind Mr Berry's desk there should be a sign that says, "The buck stops with me". That is the way it works, and I suggest that he take full note of that.

Mr Speaker, I am not sure whether it is appropriate for me to move an amendment to delete the last four words of Mr Connolly's amendment. Would that cause any difficulty?

**MR SPEAKER:** You can amend the amendment if you wish, Mr Jensen.

**MR JENSEN:** I move:

Omit ", substitute 'Board of Health's'".

**MRS NOLAN (5.14):** I will be brief, Mr Speaker. I am glad that this morning I opposed the gag because I believed that there were other members who wanted to speak on this matter, and certainly that has proved to be the case. One amendment was put up by Mr Connolly before the gag was moved, but since that point another amendment has been moved by Mr Moore and another by Mr Jensen. I am wondering whether any more are going to come forward. It has taken a little while to think this through and it has taken a little while to come to some consensus on the motion.

I support the motion. However, I have one difficulty. It is interesting to note that, as far as I am aware, no-one today gave any consideration to who would be staffing this committee, whether there would be any staff available in the committee office and, if none were, what would have to be forgone for this committee to come forward. I do not think anyone consulted with the committee office. Had they done so, perhaps they may have found that it would be rather difficult. I am sure something will have to be forgone.

It is all very well for select committees to be proposed. Some time last year I wanted to establish a select committee to look into tourism strategy for the next five years and beyond. The reason given at that time for it not being appropriate was that there would be some difficulty with the staffing arrangements. It is funny how things change. Again, there are a lot of committees operating at the moment and a lot of reports have to be handed down before the end of the year. I hope that none of those is going to have to be put on the back burner, so to speak. An enormous amount of work has already been done in those committees, and it would be unfortunate if that were the case.

I will support the motion; but, with the workload I have for my other committees, I am not proposing that I be one of the members of the committee.

**DR KINLOCH** (5.17): I was happily willing to accept not speaking earlier today, but now I have a chance to come back to that.

**Mr Berry:** I do not recall you being very happy about it.

**DR KINLOCH:** What I was not happy about was not having a chance to talk about when we were going to deal with this matter. I accepted Mr Stefaniak's motion. There is a strong benefit to the community in making effective use of our committee system; so, as in other matters, I support this select committee, which has at least two months to do its job.

As to the problems described by Mr Berry, I make the point that if, for example, I were on this committee I would be listening to all the views that were put forward. The committee is an investigative committee; it does not prejudge anything. If Mr Berry wants to put his views before that committee, he can do so. I would certainly undertake to look at this with an open mind.

I felt that the Estimates Committee - and much was said about the Estimates Committee - turned into a kind of shooting war between Mr Berry and Mr Humphries. That rather got in the way of getting out the evidence about the beds. I would like to hear doctors and nurses, not bureaucrats, telling us about the beds. I want to hear

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more about the day surgery matter, which we tried to get in the Estimates Committee. I want to hear on-the-ground evidence on this matter. I do not want to hear political sniping from either side. It must come down to trying to answer these questions.

The point was also made that there is nothing anyone can do about it, that if the report is produced on 12 December it is too late. I do not agree with that. The investigative process itself is worthwhile. There will be an outcome of some kind. That outcome becomes a matter of public interest and publicity; so, that could be the benefit of it. I surely do not believe that we should close down this Assembly merely because we are close to 12 December.

**MR BERRY** (Minister for Health and Minister for Sport) (5.19): Mr Speaker, I rise to speak on the amendments. I draw attention to a speech by Mr Humphries on 29 November 1990. He talked about the functions of the board being in accordance with its primary objectives, and he listed them as follows:

to provide health services for the residents of the ACT and, as appropriate, for residents of the surrounding region; to manage health services and health facilities under its control; to provide for the planning and evaluation of health services, including services provided by the public and non-government sectors; to provide for the appropriate training and education of persons providing health services; to make available to the public reports, information and advice concerning the health of the community and the health services available.

Much was said throughout that debate about the intended independence of the board in relation to the management of the hospital system in the Australian Capital Territory. That is the position that exists today, and it exposes the nonsense of the motion and of some of the amendments that have been proposed.

It is very interesting that it is suggested that this select committee inquire into somebody's proposed reduction in bed numbers - in the present tense. There are no proposed numbers of bed reductions at the moment. Mr Humphries knows it; Mr Jensen knows it, because he is the chairman of the committee that investigated these matters and took evidence in relation to hospital performance. A management strategy has been put forward by the Board of Health about the delivery of health services in the Territory.

This is merely a grandstanding exercise by Mr Humphries. It will do him no good. He will get the same evidence he got in the Estimates Committee if he asks the same questions, and I doubt that he will ask anything different. He has exhausted all his energy in respect of hospitals,

because none of his questions have been very challenging; nor have they uncovered anything that would cause anybody concern about the way the Board of Health is managing the health system. If they had, I am sure Mr Humphries would have made a meal out of it. Although he threatened to make a meal out of it, he failed again, as he failed in his ministry. The failed Health Minister sits beside the failed Treasurer. What a double! Neither knew what was going on in the hospital system in relation to budgets, and Mr Humphries has now been shown not to be able to count.

**Mr Connolly:** Mr Kaine did that.

**MR BERRY:** Yes, Mr Kaine can count; we know that. The issue that is of concern to me - I have said it before and, at the risk of boredom for some members, I will say it again - is that this is a stunt. It is really a matter of raking over coals that have been raked over in the Estimates Committee. It is surprising that Mr Moore supports it, although he had the opportunity to raise it in the Estimates Committee. He will be attempting to question the same senior bureaucrats on the very same subjects, raking over the same old coals to discover what is going on in the hospital system. He will discover what is going on in the hospital system, as he has done in the Estimates Committee.

**Mr Kaine:** They might get better answers when they have not got you up front.

**MR BERRY:** I can assure you that you will get the same answers. In health, we are all dancing to the same tune. It is not as it was when Mr Humphries was in power. There are issues that require a coordinated approach, and it is only Labor that can provide that.

It is silly for Mr Humphries to pursue this motion; it is silly for other members to pursue it. It shows how hollow their objectives are, when we look at what happened in question time today. Not one of them was interested enough to ask me a question about hospital bed numbers - because there is nothing of worth to report on the matter off which they could feed.

They will go through this committee procedure, whoever ends up being the chairperson. I wonder whether that has been decided. Hector seems to have decided that he is going to be on the committee. There are going to be only three, it seems. I expect that Mr Humphries will be on it; I know that Mrs Nolan does not want to be on it; and it has been suggested that Mrs Grassby might be on it as well. Mrs Grassby does not need the workload, but if this silly motion survives Labor will support Mrs Grassby being on the committee to ensure that the Labor Party is represented. Mrs Grassby will make a positive contribution to that committee - something that I am sure the other members on it have not been able to achieve through their involvement in the Estimates Committee.



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That raises the issue of the worth of the Estimates Committee. Why on earth do we bother going through that ritual if we are going to have another committee to inquire into what the Estimates Committee inquires into?

**Mr Kaine:** No; the Estimates Committee is looking at money.

**MR BERRY:** The Estimates Committee looked at issues such as bed numbers too. I can remember attempts by members of that committee to grill me. It was a public relations exercise which failed. It was a silly business. It was early days for the Board of Health in managing the Government's budget. Their strategy is wide open. It was put on the table, and it was plain to see that they are getting on with the job.

What will happen now is that this committee will interfere with the process. It will politicise the board's work even more. I know that there is some concern amongst board members about the politicisation of their management of budgets, and that is something the Government will have to deal with. This silly political exercise will make it more difficult for the board to get on with its job. It will make it more difficult to get on with the consultation that is required to ensure a smooth transition to more efficient services.

I know that the Liberals would not be concerned too much about that because they do not have much of an understanding of the need for consultation or its worth. Nevertheless, that is a matter of concern to me, and this committee will interfere with the process the Government has supported in relation to the board's advancement of health services in the ACT.

One other thing that needs to be covered in this debate is how the secretariat will cope with the provision of resources for the committee. My understanding is that the secretariat is flat strap when it comes to the provision of resources for the various committees. It is a matter for the Speaker to attend to inside the borders that have been set for his budget, and the sorts of resources that will be required, I suggest, are significant.

This committee is a race to the line. It is a short course, and I suggest a short course to disaster, because it will not produce the sorts of results that ought to be produced if we want to look at these things objectively. This is a political campaign; no more than that.

This proposal fails on all scores. It fails because it attempts to duplicate all the things that we all say in this place should be ruled out. It attempts to duplicate the work of another committee of this Assembly, a committee which I suspect now will not report on hospitals and bed numbers. Does this mean that now they will not say a word about bed numbers in our hospital system?

Does it mean that we have wasted all of our time on hospitals, wasted hours and hours traversing all the stuff on hospitals, which will be now raked over with the same bureaucrats, with access to the same information? They might as well photocopy the stuff they have used for the other committee and hand it over straightaway. It will save this committee a lot of work.

**Mr Kaine:** I do not think they will get away with that.

**MR BERRY:** They will get away with it because that is the only information that is available. They gave the information that was requested by the people on the Estimates Committee - the same people who are going to form this new committee. Nothing will change. This committee process is a joke; it is silly. It is just grandstanding nonsense, and it ought to be rejected.

**MR HUMPHRIES (5.29):** If I might close the debate on the motion and the amendments, the arguments put by Mr Jensen are quite convincing. I think we should support the amendment, which makes neutral the reference to the proposed reduction in bed numbers. It certainly makes that provision an important focus of the committee's report but does not politicise the question of whether it is the Government or the Board of Health. It simply refers to the reduction in bed numbers. We know that the Government has played a very large role in that, but that is not the point. We are going to have to look at those reductions and decide whether they are right or wrong, irrespective of who has put them forward.

Mr Berry seems to think this is a stunt. He is entitled to think that, but the fact of life is that there are very real questions to be asked about these things.

**Mr Berry:** Ask them; just ask them.

**MR HUMPHRIES:** I and others have been asking these questions for some days, and have not had any answers. Even in today's newspaper we see the headline "Calvary short at least 46 beds". Obviously, the people at the *Canberra Times* were asking that question and could not get satisfactory answers either.

The fact of life is that we simply do not have the answers to these questions. The Minister has stonewalled shamelessly because he does not wish to provide the information. Everybody who has observed this process has come away unimpressed with the Minister's performance. If Mr Berry thinks that he performed well in question time and in the Estimates Committee, he ought to talk to some of the journalists who observed it and see whether they agree with that point of view.

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We will certainly be taking up the option of examining further members of the Board of Health staff who have appeared before the Estimates Committee. We have the prerogative of calling other people as well, and that would be one of the major roles of this committee. We will be taking the transcript of the Estimates Committee as a starting point and trying to use the information that came out of that. I might say that it is extremely difficult to gather anything from that process, because a great deal was left unsaid.

**Mr Connolly:** You should have asked the questions.

**MR HUMPHRIES:** It was left unsaid by the Minister, under repeated questioning. Sometimes questions were asked five or six times and still not answered.

**Mr Berry:** And the chairman said, "They have been answered. Shut up, Gary". That is what he said.

**MR HUMPHRIES:** I will give Mr Berry some examples so that he can see just how hollow his claims ring. Mr Berry doubted that he had ever been asked for the figures for the July monthly report on the hospital budget. I quote from page 1008, and this is only one of several references, I am sure, where I said:

Could we have the July report, while we are there?

The official, rather than the Minister, answered:

I would have to check what was available at that point in time.

We found out later that there was a report; it was in a different format. But the request is clearly there. It was for the July figures, and we have not had them yet. Here is the first example of an unanswered question, a request for information that has not been provided. Again, the Minister will find that he is not going to get away with this. We find it very hard to get anything out of this Minister. His stonewalling, not just in the Estimates Committee but in every question time, is disgraceful. It has been observed by other people, and I think it will not do him any credit.

There was a question on 9 October about activity levels in the hospitals. I have endless questions, page after page of questions, about what activity levels the Government expected for 1991-92. We just did not see any answers.

**Mr Berry:** What was that about?

**MR HUMPHRIES:** You should have been paying attention. We heard endless stonewalling from the Minister. I asked:

Can you tell me how many people you are projecting will present for admission as inpatients in this financial year?

Waffle, waffle. The Minister replied:

We have said that we are going to increase the throughput in beds in the hospital system and that involves things like day surgery and those sorts of things.

That is not an answer. I asked you what the projected rate of presentation for in-patient treatment would be in the financial year. The answer was, "We are going to increase the throughput and there will be things like day surgery". That is not an answer, and I think Mr Berry knows in his heart of hearts that that is not an answer.

Mr Berry knows that the Government's tactic is, "Don't provide answers to these matters". That is all well and good. That is fine if you want to do that. It is not the first time a government has done that. But you can expect to find, when you have not a majority on the floor of the Assembly, that people will be saying to you, "You have an obligation to make information available to members of this Assembly".

We collectively are responsible to the people of the ACT for the conduct of things such as the ACT budget and the running of health services in the ACT, not just the Government. We have a right to know what is going on. We have a right to monitor that and to have input and to contribute to the debate on fixing the problems that have come down to us from the past.

**Mr Kaine:** Particularly from a government that talks about open government.

**MR HUMPHRIES:** Particularly from a government that talks about open and consultative government. That line is made a mockery of by the process we went through in the Estimates Committee and it is going to be made a mockery of in every other question time. You can run the line that we are being difficult and that the Government provides information whenever we ask for it, but people do have access to *Hansard*. They can and do read what has been said.

Nobody, by any stretch of the imagination, could be satisfied with the sorts of answers that have been coming from this Government. If you want to treat the Assembly as mushrooms, watch out. Sometimes the mushrooms fight back. They are fighting back now. They want to know what is going on, and this committee, we hope, will be a way of finding out what the answers are to these vital questions.

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Amendment (**Mr Jensen's**) agreed to.

Amendment (**Mr Connolly's**), as amended, agreed to.

**MR MOORE** (5.36): Mr Speaker, I seek leave to put my amendment. I did foreshadow it in my speech; but, because of standing order 142, I think I ought put it now. I seek leave of the Assembly to put my amendment.

Leave granted.

**MR MOORE**: I move:

Add at the end the following new paragraph:

"(6) The Committee may examine other related matters which it considers should be drawn to the attention of the Assembly".

Amendment (**Mr Moore's**) agreed to.

Motion (**Mr Humphries'**), as amended, agreed to.

#### **ADJOURNMENT**

Motion (by **Mr Berry**) agreed to:

That the Assembly do now adjourn.

**Assembly adjourned at 5.38 pm**