



**DEBATES**

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

9 September 1992

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**MADAM SPEAKER** (Ms McRae) took the chair at 10.32 am and read the prayer.

**DRUGS OF DEPENDENCE (AMENDMENT) BILL (NO. 2) 1992**

Debate resumed from 19 August 1992, on motion by **Mr Moore**:

That this Bill be agreed to in principle.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.33): I will be taking the call for the Government on this matter. The issue of reform of the law in relation to cannabis has been before this community and this Assembly for quite some time. Last year Mr Collaery, as a private member, presented a Bill which had provision for on-the-spot fines for certain cannabis offences. That Bill was not debated, but spokespersons for all of the parties then in the Assembly said that this was an idea that had merit and that it should be looked at carefully.

Last year the Opposition party's policy committee, as the *Canberra Times* reported in March 1991, proposed a policy which said outright that this Territory should decriminalise the personal use of marijuana. Mr Humphries, the then Liberal Minister for Health, was on record as saying that he would be involved in the drafting of the policy. He said:

... I certainly think that our community is mature enough now to handle this issue and debate it fully. ... I think we should be looking at it in the Liberal Party, and I will be supporting debate of this matter ...

Unfortunately, Madam Speaker, this Opposition is bereft of any ideas, bereft of any criteria on which to attack this Government on its economic performance or on its social performance. This Government, in the 12 months or so that we have been in office, has received the endorsement of the Canberra community, and that resulted in the re-election of the Follett Government.

This Opposition decided that it had nowhere to go with that sensible approach. It had to go out to private consultants who had to tell them how to conduct themselves in this chamber. The consultant said, "The way to conduct yourselves is to put the maximum distance between you and the Government. So do not worry about the merits; do not worry about the sensible comments that Mr Humphries was making in March 1991. Rant and rave, generate hysteria wherever you can; generate fear; confuse; bamboozle". That is the approach that has been adopted by the Opposition on this issue.

Instead of the rational comments that were being made by Mr Humphries when he was Minister for Health, and when his policy committee was proposing the decriminalisation of marijuana, we have had hysterical nonsense coming out of members opposite, suggesting that the Labor Party is going to end civilisation as

we know it in the ACT and is going to be fostering drug addiction. We had the pathetic spectacle last week, Madam Speaker, of a small group of students, almost outnumbered by Liberal politicians in search of a camera, trying to do a bit of rabbleroising in Garema Place as a so-called protest against marijuana law reforms. It was indeed a fizzer, as the media quite accurately reported.

The sad thing about it, Madam Speaker, is that, as a result of the advice given to the Liberal Party and which was tabled and published in this place, we have seen the Liberals move from very sensible comments on this issue last year to generating fear and hysteria in the community. I think that is a sad thing for this Assembly and a sad thing for the process of self-government. In the past at least the two major parties have tended to take rational views of debate, and we have not really seen oppositions just opposing for opposition's sake and just being silly in order to distance themselves from the government. It is certainly not a practice that this party followed when in opposition. We were always looking for constructive solutions. Indeed, the Liberal Party was clearly looking for a constructive solution on this issue last year, but decided, on advice from outside, that here was a cheap political issue on which to generate a bit of heat, but not much light, and to try to whip up some frenzy.

Madam Speaker, the Government has never been proposing to legalise marijuana, despite the rhetoric of some members opposite and some community groups that members opposite might think might be worth a few votes for them. What we have said is that we have to look realistically at the issue of substance abuse in the community. My colleague Mr Berry only yesterday proposed another Bill on that subject which received very favourable attention in the *Chronicle* newspapers. We have to look sensibly at the issue of substance abuse and we have to realise that different substances are used or abused in different ways. We have to accept, in the mature manner in which Mr Humphries proposed that the debate be conducted last year, that cannabis is a substance which is widely abused in the community.

All surveys over recent years suggest that most Canberrans, and most members of the Australian community under, say, 35, have been exposed to cannabis at some stage. Are we going to say that all of those people should be dealt with as criminals and should have criminal records? The on-the-spot mechanism for dealing with cannabis has been in place for many years now in South Australia. While maintaining strict penalties for trafficking and for other forms of drugs, you can deal with personal use quantities of cannabis by way of an on-the-spot fine. We have been on record for some time as suggesting that an on-the-spot fine as a concept for personal use quantities of marijuana is a sensible proposal, as indeed Mr Humphries, back in 1991, seemed to be suggesting.

We, of course, debated this issue last year. We had some hysteria yesterday from the Liberal Party suggesting that this was some secret agenda of the Labor Party's, that nobody had said anything about this. Yes, I can understand opposition members laughing. It was a fairly laughable proposal from Mr Kaine. I well recall this issue being debated very fully in the Canberra media late last year when Mr Collaery was proposing this change.

**Mr Kaine:** Give the kids drugs; that is funny?

**MR CONNOLLY:** There he is again, saying, "Give the kids drugs; it is fun", or "it is funny". This is exactly the pathetic nature of pseudo opposition that we have seen here, whipping up hysteria, whipping up misinformation. You know, Mr Kaine, that we are not talking about giving the kids drugs. Your deputy leader last year was proposing these sorts of things. In order to get a couple of headlines this Liberal Party has thrown out the rational debate that it was proposing 18 months ago and gone for cheap, grubby and misleading statements like you just made. It does not sit well on the Leader of the Opposition.

**Mr Kaine:** I take a point of order, Madam Speaker. I have made no misleading statements, either in this house or elsewhere. I would like that withdrawn. "Misleading" has been defined as being unacceptable.

**MR CONNOLLY:** I will withdraw "misleading" and say "incorrect statements like that", because the statement that we want to give kids drugs is clearly incorrect.

**Mr Kaine:** I did not like "grubby" too much, either; but I will let you get away with that.

**Mr Berry:** You can wear that. It sits well with you.

**MADAM SPEAKER:** Mr Connolly, please proceed.

**Mr Kaine:** It is about equivalent to "shonky" and "sleazy".

**MR CONNOLLY:** Utterances opposite, I will ignore. What the Government is proposing to do, taking Mr Moore's Bill as stimulating debate on this issue, is to proceed with the concept of on-the-spot fines for the small personal use offences which currently have very low fines.

The ACT has fine regimes for cannabis which do differ from the regimes in many other States. The ACT has recognised for many years, since 1978 under a conservative Federal government, that personal use of quantities of marijuana under 25 grams or the growing for personal consumption of up to five plants ought be treated substantially differently from other drug related offences. As I say, since 1978, when the Poisons and Narcotic Drugs Ordinance was passed under the signature of the then Minister of State for Health, Mr Hunt, in a Liberal government, the - - -

**Mr Moore:** That is with a small "l".

**MR CONNOLLY:** Yes. The Liberal Party has moved a fair way since then, as we see constantly. Madam Speaker, the law in the ACT since 1978 has had a range of penalties for cannabis offences ranging from life imprisonment, which is the maximum penalty known to the law in Australia, to a \$100 fine.

This hysteria that those opposite seek to generate misses the point that since 1978 the law in this Territory has distinguished between cannabis offences involving trafficking of commercial quantities of cannabis, being 100 kilograms of cannabis, which of course is a large quantity, and much smaller quantities of cannabis derivatives. Only two kilos of cannabis oil or 50 kilos of cannabis resin give rise to a maximum penalty of life imprisonment in this Territory. That should remain, and will remain, Madam Speaker. Since 1978, under a Liberal government, the possession for personal use of 25 grams of cannabis has carried a \$100 fine, and the cultivation of up to five plants for personal use has carried a \$100 fine.

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We think, Madam Speaker, that that is right and appropriate. We think that that range from life imprisonment to a \$100 fine is sound and sensible, and should remain. The amendments that we are moving retain those penalties. The difference, Madam Speaker, is that we are suggesting that Mr Moore's proposal for on-the-spot fines does make sense and ought to apply to the small personal use offences which since 1978, under a Liberal government, have been distinguished dramatically from other drug offences.

**Mr Kaine:** Yes, you want to soften the law on drugs. That is your approach.

**MR CONNOLLY:** It is pathetic, Madam Speaker. They are continuing with this hysteria. It is so embarrassing when their own party took such a different view only 18 months ago. That difference

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**Mr Humphries:** Your party has changed its view about pharmacies and methadone.

**MADAM SPEAKER:** Order! Could all remarks be addressed to the Chair or not made at all, please.

**MR CONNOLLY:** That difference, Madam Speaker - the introduction of the \$100 penalty back in 1978 - from other penalties is dramatic. I will run through, for the education of members, the penalties in the ACT for cannabis offences. For the sale or supply of commercial quantities of cannabis or cannabis resin or cannabis oil there is a potential life imprisonment sentence. The Act makes a distinction as to what is a commercial quantity - a quite large quantity of cannabis, 100 kilograms; a much smaller quantity of cannabis oil, two kilograms; and an intermediate quantity of cannabis resin, 50 kilograms.

The next range of penalties, Madam Speaker, is for the sale or supply of a trafficable quantity of cannabis, which, under the current ACT law, is 100 grams - not kilograms - of cannabis; two grams - not kilograms - of cannabis oil; and 20 grams of cannabis resin. Under existing ACT law that attracts maximum fines of \$20,000 and 10-year gaol terms. Selling or supplying a smaller amount of cannabis carries a fine of \$5,000 or two years' gaol - unless the sale is to a person under 18, in which case the smaller quantity, the less than trafficable quantity, carries a penalty of \$10,000 or five years' gaol.

So we can see that the law in the ACT for many years has distinguished between commercial quantities for sale, trafficable quantities for sale, sale generally of less than trafficable quantities, and sale to minors, which has always been regarded as a more serious offence than general sale. Those offences, Madam Speaker, in every case carry gaol terms, from a two-year maximum, for the possession of up to 100 grams, to life imprisonment - the strongest penalty known to the law. Compared with penalties of two years' gaol, \$5,000 and up to life imprisonment, we have had, since 1978, the \$100 penalty for possession of 25 grams or five plants. There has been a massive distinction in the way that the law has treated, for all that time, the possession of personal use quantities of marijuana and larger quantities of marijuana.

Madam Speaker, all that we are proposing to change is the method of enforcement of that \$100 penalty. We are proposing that that be dealt with by way of an on-the-spot fine. What that will mean, Madam Speaker, is that persons who do continue to infringe the law - because, Mr Kaine, we are not legalising marijuana, if this amendment goes through - - -

**Mr Kaine:** I thought this was Mr Moore's Bill. It is yours now, is it? This is what "we" intend to do, not Mr Moore.

**MR CONNOLLY:** The difference between Mr Moore's Bill and our amendments is the question of quantities. Mr Moore goes a considerable distance from the current law and significantly relaxes penalties. The Labor Government amendment to Mr Moore's Bill retains the existing penalties, Madam Speaker, and that is a very significant point. The difference is that a person who is detected by the police with up to 25 grams of marijuana or up to five plants will have an option. The police officer, under our proposal, would be able to issue an on-the-spot fine. The person would then have the option of disputing that on-the-spot fine in court or paying the \$100.

It is true, Madam Speaker, that it is extraordinarily rare for personal use offences of up to 25 grams or five plants to attract a \$100 fine in court. The magistrates in this Territory tend to impose a fine in the order of \$40 or \$50. It has been the case for many years. That is why Mr Moore proposed \$40. We prefer to leave it at \$100 because we are sending the message that this remains an offence. The person, essentially, has the choice of going to court, contesting their guilt, I suppose, at the highest extreme, or seeking a plea in mitigation and perhaps getting less than a \$100 fine, but running the risk, Madam Speaker, of a court conviction for a drug offence. For a young person, particularly for a young person, that is a very serious matter.

There are many countries in our region of the world where having a criminal record for a drug offence has very severe penalties in terms of the ability of the person to travel. A drug offence would appear on any criminal record sheets as an offence under section 164 or section 171 of the Drugs of Dependence Act. The stigma of having a criminal record for a drug offence is quite dramatic in our society, and we say that young persons particularly, but all residents, ought not to have to face that; that it is a more sensible proposal to allow the existing penalty regime to be expiated by way of an on-the-spot fine.

The interjection from Mr Kaine saying that we are wanting to give drugs to kids, that we had a little bit of a row about earlier on, is extremely mischievous. That is the sort of thing that we would expect the Liberal Party to continue to try to peddle around this community.

**Mr Kaine:** I take a point of order, Madam Speaker. That is not what I said. I said that what they want to do is to make them freely available. I did not say "give them to". There is a very real distinction between what I said and what he is now representing I said.

**MADAM SPEAKER:** Order! Thank you, Mr Kaine.

**MR CONNOLLY:** I withdraw what I said and I thank Mr Kaine for clarifying it because he digs the hole just that little bit deeper. This mischievous claim that we are trying to make it freely available is total nonsense because making it freely available involves trafficking or supplying, and the offences for sale or supply, for trafficking, for passing drugs over, will remain, under our proposal, very high. I would note that, under Mr Moore's proposal - - -

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**Mr Kaine:** How many people have been prosecuted for this in the last year under your Government? The answer is none.

**MR CONNOLLY:** No, that is nonsense, Mr Kaine; that is utter nonsense, and you should know better. Making such ignorant and ill-informed statements does not reflect well on the Leader of the Opposition, who ought to be the member opposite who commands the most respect from government benches. Mr Humphries, in fact, was leaping up and down, foaming at the mouth, the other day when the Director of Public Prosecutions annual report was tabled. He was running around to the community saying, "Look, look, shock, horror! There have been more prosecutions for drug offences in the ACT". Your deputy was saying, "Shock, horror! You are prosecuting too many drug offences". Well, he was not saying that; what he was saying was that drug offences are rising - and you are saying that we do not prosecute drug offenders.

Mr Kaine, we prosecute drug offenders, particularly drug traffickers, with extraordinary vigour. The annual report of the Director of Public Prosecutions, which was tabled in this place the other day, has been passed to me by my highly efficient staff in the last 30 seconds. It indicates that for supplying cannabis, which is the passing of cannabis to another individual, there were 31 defendants, 92 charges, 42 pleas of guilty, 50 pleas of not guilty, 70 convictions overall, and a number of other matters stood aside. The total poisons and narcotics charges showed a slight increase from 1990 to 1991. So we continue to pursue these vigorously.

I will run through the cannabis offences. There were four charges of using cannabis, but that is not the offence we are talking about. There were 36 charges of possessing cannabis. For possessing cannabis for supply or sale there were 31 charges. Supply cannabis is the key because the supply offences are the ones that carry the maximum penalties. The supply offences are the ones that are directed at the traffickers. In the case of cannabis they are the people who are of most concern. We all know that traffickers often prefer not to sell cannabis because it is a bulky drug. They much prefer to sell substances like amphetamines. They try to target those substances at the groups who may be consuming cannabis, and if we can attack them we can stop the movement onto more difficult drugs. (*Extension of time granted*)

**Mr Kaine:** How many of those were there?

**MR CONNOLLY:** There were 92 charges of supplying cannabis, resulting in 70 convictions. I do not have the equivalents for the previous year, but in virtually all matters the bar chart in that report showed a slight increase. That is to be expected, given that that has been the pattern for the last 10 years - a slight increase every year. So any suggestion from members opposite that we are in any way going soft on drug traders or drug traffickers is simply nonsense. By the way we were able to refute that so quickly, I think any future such assertion will not reflect credit on members opposite.

Madam Speaker, to summarise, what the Government is proposing is an amendment to Mr Moore's Bill which takes up the on-the-spot fine mechanism with a minor amendment which I will be dealing with at the detail stage and applying that to the existing penalty regime. In other words, Madam Speaker, there is no change - no change, Mr Kaine - to the existing penalty regime.

The existing regime has recognised since 1978 a massive distinction between possession of 25 grams or less and five plants for personal use, carrying a \$100 fine, and all other cannabis use, supply, possess or consume offences, which have always carried very substantial penalties ranging from \$5,000 and two years' gaol up to life imprisonment.

The distinction that we make in relation to the personal use offences and other cannabis offences is one that has been in the law in this Territory for some 14 years. It was originally introduced, ironically, given this debate, by a Liberal government; but perhaps that shows that the Liberal Party in the past has been open to ideas and open to constructive debate. Only last year a newspaper report, on 3 March 1991, was headed "Libs move on drug use - Legal marijuana considered". The report said that the Liberal Party was taking a rational approach to the issue, and Mr Humphries was saying that he thinks our community is mature enough to handle this issue and to debate it fully. How sad it is, and how badly it reflects on this Opposition, that all they have been able to do in this debate is to try to generate hysteria in the community, to try to generate assertions, which they were making even during this morning's debate, that we somehow are soft on drug traffickers, or have not been prosecuting drug traffickers. That is a sad state of affairs for the once great Liberal Party.

**MRS CARNELL (10.56):** Madam Speaker, decriminalising cannabis is not the obvious step that members of the Government and Michael Moore appear to think it is. There is still a lot of ignorance surrounding cannabis. In contrast to what the Government seems to believe, cannabis is a dangerous drug. It is potentially more dangerous than either tobacco or alcohol, and at least as dangerous. This fact cannot be disputed. Yet there is a widespread belief that cannabis is relatively harmless. Unfortunately, the legislation we are now considering appears to be premised on this belief.

Let us look at the facts. Let us look at what the United Nations has to say in their document called, "United Nations and Drug Abuse Control". Cannabis can impair short-term memory. It slows learning and responsiveness. There is no doubt that the drug affects skill performance and other tasks involving judgment and motor-neurone skills. One of the things that this deterioration has pronounced effects on is traffic and driving skills. It is well known that people under the influence of cannabis who drive cars can cause accidents. They can also cause fatalities.

Cannabis is clearly a cause of driver impairment - a fact of which we are becoming increasingly aware. A study conducted by Judith Perl, of the forensic unit of the New South Wales Police, shows that cannabis is the single most important source of driver impairment discovered in blood and urine samples. Cannabis constituted 68 per cent of all drug-positive urine and blood tests conducted in New South Wales during 1990. Thus the threat that cannabis poses to driving safety is not idle and it must not be ignored. We know that alcohol also affects driving ability, judgment and skill performance, but the residual effects of cannabis last much longer than those of alcohol. Alcohol will be excreted from the body within a maximum 24-hour period because it is water soluble. Cannabis, however, is fat soluble. This means that the active parts of the chemical can be traced in the body for a very long time afterwards, sometimes as much as 30 days after the initial use.

There is also tentative research which suggests a link between cannabis and particular conditions, such as heart problems and mental problems such as schizophrenia. For instance, studies mapping the correlation between schizophrenia and cannabis show that a cannabis user is six times more likely to develop schizophrenia than a non-user. It is certainly true that cannabis adversely affects lung and respiratory functions. One cannot doubt this, because a cannabis or marijuana cigarette contains far more carcinogens than the strongest tobacco cigarette. Not only does cannabis contain more tar than tobacco; in addition, people smoking cannabis will not have the benefit of filters or any of the other requirements that come with a tobacco cigarette. So people smoking marijuana will be exposed to far more cancer causing agents than could possibly be imagined from any tobacco cigarette.

The Liberal Party does not consider it wise, on any sensible public health grounds, to be encouraging people to become exposed to new sources of carcinogens; yet the Government wishes to relax the laws relating to this drug. It is totally hypocritical. At a time when we are seeking to increase restrictions with regard to tobacco, because we all recognise its cancer causing properties, the Government wishes to decrease the restrictions on cannabis. Cannabis clearly is as bad as tobacco and alcohol. Like both alcohol and tobacco, cannabis is a drug of dependence, but it has some of the worst properties of both these drugs. On one hand, cannabis has more carcinogens than tobacco. On the other, it is a psychotropic drug, just like alcohol, so it seriously affects thinking and skill performance. Cannabis clearly has the potential to be the worst of both worlds. In other words, the truth about cannabis could not be further from the perception that appears to exist in some quarters. The perception is that cannabis is not dangerous, when the fact is, quite categorically, that it is in many cases.

The Liberals believe that in view of the fact that cannabis is a dangerous drug there is merit in retaining the current sanctions. Government members may argue that a penalty against cannabis use is being maintained in the form of on-the-spot fines. However, the real truth is that any credible deterrent against the use of marijuana will be removed. The signal that we will send out is a powerful one, and one that has been underestimated by those supporting the Bill. What it says is that cannabis use is now okay. Notwithstanding the on-the-spot fines, the signal is that cannabis use is okay, or at least no worse than going through a "stop" sign, or parking in a "no parking" area.

We have to consider the use from the perspective of someone who is on the verge of a decision about whether to use cannabis or to abstain, and from the perspective of someone who is just about to use cannabis: There no longer will be any credible deterrent. If you happen to bump into a policeman it is a bit of a problem because you might have to pay, under Michael Moore's Bill, \$40, or under Mr Connolly's Bill, \$100. Well, that is a bit of a nuisance, but that is all it is. Apart from this small fine, what the Bill does is to remove any real deterrent from these people's use of cannabis. In other words, by passing this amendment Bill you could actually be encouraging the use of what is a dangerous drug. The fact that you could be promoting the use of a dangerous drug is supported by evidence from most jurisdictions where a relaxation of cannabis laws has been tried in the past. They have experienced an increase in drug use. In Holland the production of cannabis as a horticultural crop has increased significantly over the years and the range of outlets and cafes selling the drug has expanded. These facts alone show that cannabis use in Holland must have increased dramatically.

A comparison of the rates of cannabis use in New South Wales, which has very strict laws, and South Australia, which has taken the decriminalisation path, also supports the belief that drug use may increase. A report by South Australia's Drug and Alcohol Services Council shows that, in 1989, 11.3 per cent of 15-year-olds and 10.6 per cent of 16-year-olds had used cannabis. In New South Wales the figures were 8.1 per cent of 15-year-olds and 8.1 per cent of 16-year-olds - certainly less than the South Australian figures. The fact that this Assembly appears so prepared to embrace proposals that could encourage cannabis use leads me to believe that members of the Government are acting on the belief that marijuana is relatively harmless. Once again I say that cannabis is not harmless. It can be a very dangerous and addictive drug.

I am not so worried about educated adults, who in most cases should have the information and discretion to make sensible decisions about cannabis. However, we are seriously worried about the signal that this legislation will send to children and young adults. This Bill will give a leg-up to peer group pressure in this area. Adolescents are prone to risk-taking behaviour and to experimenting, and there is often a considerable amount of pressure on them to do these things. A source of support to those young people trying to resist pressure to experiment in the use of marijuana has been the fact that marijuana use is a criminal offence.

Now this Assembly seems to be saying that this will not be a criminal offence but will be only a minor misdemeanour. I think that you are giving a boost to this sort of peer group pressure; the sort of pressure that will force young people into experimenting. It will be much harder to resist smoking a joint if, at best, it is made a minor misdemeanour. People will think you are really a bit of a wouser if you refuse, but while it is a criminal offence there is something more real to be concerned about. There is something far more definite that a young person being encouraged to use marijuana can point to. The Liberal Party believes that the criminal sanction provides support for these young people in their efforts to resist. Far from Mr Moore's forbidden fruit scenario, the Liberal Party believes that by removing the offence you may actually be encouraging cannabis experimentation amongst teenagers and adolescents.

The main point which must be emphasised is that marijuana is, or potentially is, a dangerous drug. The toxicity of this substance has been seriously underestimated by those supporting the amendment. They appear to be acting on the perception that cannabis is relatively harmless. Why else would they be prepared to embrace measures that could potentially encourage cannabis use? In summary, not only have members in support of this Bill underestimated the toxicity and the addictive properties of cannabis; they also have badly underestimated the signal that this will send out to encourage the use of cannabis, particularly among young people. The Liberal Party has not underestimated these effects; so we will be opposing the Bill.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (11.08): Before I launch into this matter I would like to welcome the students and teachers from Kaleen High School who are here with us in the gallery. I hope that they enjoy their consideration of this debate.

Madam Speaker, I have to mention first of all some things that have been talked about in relation to the Liberals' performance on this issue. It is very clear that some of the Liberals, at least, in the past have had a wet position - in fact, a drippy position - in relation to this matter. But, since they have been advised to take a very different position from the Government, they have attempted to

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distance themselves from anything that could be seen to be progressive. I am afraid Mrs Carnell's speech was unconvincing in that respect. I have to say that it appeared that she did not have her heart in it. Perhaps it would be better if it did not appear that way. I think that this comes from the general political approach that the Liberals have taken in relation to debate in this Assembly.

There have been some attempts to cause mischief about the debate - there is no question about that - and to emotionalise issues related to this matter. Statements like "Give drugs to kids" are patently wrong and are very definitely intended to mislead the community about what this Bill will do. There is a real attempt with those sorts of misleading statements to create fear and hysteria. Statements like "Free up access to drugs" are clearly lies. You cannot have people saying those sorts of - - -

**Mr De Domenico:** I raise a point of order, Madam Speaker. I suggest to you that Mr Berry's use of the word "lies" - - -

**MR BERRY:** I did not say that you said anything. Sit down. I never said it. I said, "Statements like - - -

**Mr De Domenico:** Madam Speaker, if you tell me to sit down, I shall. For Mr Berry to assume the role of the Chair to me is very rude, for a start. Madam Speaker, Mr Berry quite clearly said "lies". I suggest that Mr Berry should withdraw that because I do not believe that any members on this side of the house have lied.

**MR BERRY:** Well, that is fine. You have naught to worry about.

**Mr De Domenico:** Then withdraw, please.

**MR BERRY:** Madam Speaker, I said that statements like "Free up access to drugs" are clearly lies. I never related it to those people. They seem to have a guilty conscience.

**Mr Humphries:** You said that we were saying them earlier today.

**Mr De Domenico:** That is right. Do the right thing and withdraw.

**MR BERRY:** No; you should listen to the debate.

**MADAM SPEAKER:** Order! It is my understanding that Mr Berry has not stated that Mrs Carnell made those statements. He is generalising and saying that such statements are lies. If I am wrong, I will take a further point of order on that. Please continue, Mr Berry.

**MR BERRY:** Madam Speaker, I never said that those people made that particular statement. I was merely drawing attention to the fact that statements like that are clearly lies. That is not the approach of the Government. Frivolous points of order like that are typical of the Liberals. They seem to me to want to build up a great campaign of points of order in this Assembly. They are just frivolous. They do not even listen to the debate. You have to stay awake and listen to what is going on. Listen to what people say and do not hear just what you want to hear.

The Drugs of Dependence (Amendment) Bill (No. 2) 1992 provides a legislative base for the provision of on-the-spot fines for minor cannabis offences. The Bill, Madam Speaker, is similar to legislation which has been operating successfully in South Australia since 1987, and is similar to cannabis laws in some other countries. A person found to be possessing, cultivating or privately using small amounts of cannabis is issued with an expiation notice for the offence. Provided that the person pays the prescribed expiation fee within 60 days of receiving a notice, the offence is not prosecuted in court and no conviction is recorded.

Madam Speaker, the Labor Party strongly supports a philosophy of harm minimisation with respect to drugs. Harm minimisation is about reducing the social, economic and personal harm associated with drug use and improving the general well-being of the community. It is well acknowledged that punitive approaches to controlling drug use can be counter-productive.

**Mrs Carnell:** Where are the South Australian figures to show that fewer people use it?

**MR BERRY:** Madam Speaker, Mrs Carnell interjects. Mrs Carnell is a person who supports the sale of an addictive drug from pharmacies. Mrs Carnell favours the sale of addictive drugs from pharmacies with the aim of harm minimisation in mind, but she is not prepared to support these sorts of harm minimisation programs. What double-speak! What a Jekyll-and-Hyde approach! What hypocrisy!

It is well acknowledged, as I have said, that the punitive approach to controlling drug use can be counter-productive. The introduction of a cannabis expiation system would reduce the penalties associated with minor cannabis offences and, if an offender pays the fine, this prevents the acquisition of a criminal record associated with such offences. Such a system is consistent with harm minimisation because it removes the stigma of a criminal record which may serve to reinforce rather than discourage drug use behaviour, particularly in young people. Mrs Carnell takes a distinctly different position in relation to heroin use from the position she takes in relation to marijuana use. She argues that you should sell methadone to heroin addicts for profit in a harm minimisation program, but she does not support the harm minimisation approach on this occasion. You have to maintain your position; you are all over the place.

While the possession and use of small amounts of cannabis remains an offence, the recording of a conviction for experimenting, using or possessing small amounts of cannabis is a measure out of proportion to the seriousness of the offence, and potentially leaves many people with criminal records - people who are, in every other respect, law-abiding. Moreover, Madam Speaker, prohibiting cannabis by the imposition of criminal sanction does not necessarily lead to decreased use and may encourage the use of other drugs. For these reasons the removal of criminal sanctions for minor cannabis offences is also supported by the ALP platform within the ACT. Of course, the Liberals would not understand harm minimisation. Their typical approach is to criminalise everything that they see as an offence rather than supporting harm minimisation; although, on the other hand, they are prepared to support harm minimisation where there is a profit in it. This is the sort of approach taken by the Liberals. Mr Kaine knows what is going on. He knows what I am talking about.

In South Australia, Madam Speaker, it was argued that the law prior to the introduction of the cannabis expiation system allowed a significant black market to operate around the recreational use of cannabis, which increased the likelihood of association with other illicit drug markets. In the ACT it is well known that, when cannabis is not available on the black market, treatment agencies report a higher incidence in the use of amphetamines. Mrs Carnell would agree that they are much more dangerous.

Decriminalisation of the cultivation of cannabis in less than trafficable amounts could separate small-scale cultivators and wholesale drug dealers and weaken the link between cannabis use and harder drugs. However, Madam Speaker, I am aware that there remains some concern in the community that the perceived softening of drug laws - that is the mischievous argument that the Liberals are making - with respect to cannabis will lead to increased use, particularly among young people, and that the harmful effects of cannabis on health will be understated. Research has found no support for the idea that a cannabis expiation system may encourage previous non-users to experiment with cannabis.

**Mrs Carnell:** It also has not decreased use.

**MR BERRY:** Come on! There has been no increase in detections generally or among at-risk groups such as young people since the introduction of the system. I would like to emphasise, Madam Speaker, that the introduction of cannabis expiation notices should in no way imply a less vigilant approach by the Government to the development of treatment, education and preventative measures aimed at reducing the use of cannabis.

Mr Connolly has made it very clear that the Government is ever vigilant about pursuing breaches of the law in relation to cannabis use, and will continue to be so. There is no question about that. For the Liberals to argue that the Government is softening its approach on drugs is outrageous in the extreme. What is happening is that the Government is pursuing the harm minimisation line, and that is an honourable move. The harmful effects of cannabis use on health cannot be denied - there is no question about that - and factual information about the drug will continue to be included in broad-based drug programs which are implemented in a variety of settings.

Madam Speaker, now that the ACT Government has given support in principle to this Bill proposed by Mr Moore, I would like to discuss specific aspects of the proposal and to suggest some changes. The treatment of juveniles under the proposed system is of some concern. As a matter of social justice, it is important not to discriminate against juveniles in terms of the severity of the penalty imposed. The ACT Government therefore supports Mr Moore's proposal to include juveniles in the cannabis expiation system. However, the proposed amendment is limited to issuing an expiation notice and providing a copy to a person with whom the juvenile normally resides, not necessarily an adult, parent or guardian.

Instead, Madam Speaker, a provision should be made to serve a copy of the expiation notice on a parent or guardian but not on any person residing with them unless that person is functioning as a guardian. The reason, Madam Speaker, is that many young people under the age of 18 reside in separate accommodation from parents or guardians and with groups of peers. Providing copies of notices to peers in our view would be inappropriate. Madam Speaker,

there may need to be provision for special circumstances to be considered in the case of issuing expiation notices to juveniles. For example, section 33 of the Children's Services Act considers some of these factors in relation to other offences. These factors include age and maturity of the child, mental capacity, circumstances in which the offence is alleged to have been committed, the role of parents in exercising effective control, and so on.

The Government will support in principle the Bill which has been proposed by Mr Moore, but it will be proposing fines which will be a stronger deterrent than those which are proposed by Mr Moore. We will continue to pursue our harm minimisation approach in relation to the use of illicit drugs. We will repeatedly take steps in relation to those matters. We will continue to inform the community in an open and honest way about the approach that we are taking. We will not use the sorts of hysteria and mischief-making comments which have been used by the Liberals in relation to this matter, just to present themselves as something different. We will be responsible in the way that we approach this issue.

If the Liberals had any guts on this issue they would take a constructive approach instead of a destructive one. They repeatedly have taken the destructive approach and, of course, as always, they attack the victims. The Labor Government is not in this business to attack the victims. We are about improving conditions out there in the community by way of the provision of better services and better laws. This change to the law will result in a better law. As I have said to Mr Kaine in the past, the heading at the top of the page does not mean anything; it is the guts of the law that matters. That is why Labor's social justice aims and objectives will produce better laws for the people of the Territory, and they will be better for the community generally.

**MS SZUTY (11.22):** Madam Speaker, there is no doubt in my mind that the introduction of this amending legislation will be an important initiative in the overall context of the reform of drug laws in the ACT. As my colleague Mr Moore stated during his speech when introducing his Bill, a prohibitive approach has not worked and does not work. By leaving the personal use of cannabis as a criminal offence, all we do is introduce otherwise law-abiding community members into the judicial system. At present it appears that the police are not prosecuting offences against the current legislation in this regard unless there is an accompanying offence. For that reason, therefore, the law is not being seen as a deterrent to the use of marijuana.

What I am hopeful that this amending legislation will do is make access to information on marijuana more widely available and make it more acceptable for users to admit to their medical practitioners that they are cannabis smokers. I agree that the drug can have harmful side effects and, with the decriminalisation of marijuana, these will now be able to be freely canvassed. This amending legislation is supported by many groups. The Australian Medical Association supports this move, and it is normally not regarded as being a radical organisation. Drug user support groups support this legislation.

There is a possibility that drug usage will increase with the passage of this legislation. However, the reason most likely would be, according to experts in the field, that there would be a corresponding decrease in the use of other drugs such as amphetamines and heroin. This seems to me to be a worthwhile goal for our community. Some groups, including Assisting Drug Dependents Incorporated and the ACT Intravenous League, are fearful of an outbreak of drug

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taking among our young people. They do not fear cannabis use but they do fear the continuing abuse of pills and alcohol. In an article in the *Canberra Times* of 5 September this year, Claire Caesar of ADDI said that many problematic drug users would prefer to use cannabis but its cost is prohibitive. Workers in the field believe, to quote the same article, that it is the very nature of the illicit status of drugs that causes the problems. I quote from that article:

People cope with pressures in a variety of ways, but drug use in the privacy of a home offers fewer problems than most methods. Until we give people clean drugs in the quantities they require and monitor it then the black market and all its associated problems will continue to thrive. Taking it away only makes it more dangerous, and we have seen what happens when "grass" goes out of people's reach: they use pills and when they become scarce or expensive they sniff glue or petrol.

In the same article the police admitted that their brief was to catch dealers and distributors; and once this Bill is passed they can concentrate more fully on this task, as supplying and dealing will continue to be illegal. I again quote the article mentioned, and this must be ascribed to the author, Ian McPhedran:

The bottom line is that no drug is good for you, either physically or mentally, but to allow large numbers of our young people to expose themselves to cheaper, dangerous substances while those who can afford it indulge a heroin habit or argue the pros and cons of marijuana over a glass of red wine is a sad reflection on the type of society the young are expected to inherit.

Many who say that criminal processes should be used against people who choose one type of drug, for example, cannabis, over another, for example, alcohol, are denying their own behaviour, as well as human nature. Personally, I feel that the main emphasis after this legislation is passed should be on putting in place real and effective education programs which do convey to users, medical practitioners, community nurses and health workers, and the public in general, the effects of this drug.

There is already an attempt to do this in the more general sense through the Life Education program for school-age children, but there still exists a gap in the understanding of many in the community on the use and abuse of all drugs. This week, for example, the Federal Government has launched a program to raise awareness of the abuse of prescription drugs in the wider community. Some 30,000 people are admitted to hospital each year because of the inappropriate use of legally prescribed medication. Indeed, what we need to address in our society is an overuse of all types of drugs.

By introducing this legislation to the Assembly my colleague Mr Moore is doing no more than implementing a policy objective from the platform of the Michael Moore Independent Group during the election campaign. As stated, our policy objective is to "decriminalise the possession of cannabis and cannabis products so that individuals might grow and use cannabis in small quantities". We know that a prohibitive approach to drugs policy is ineffective. This legislation enables the community in the ACT to choose a different path, not a radical path, to approach the issue of drug-taking in our society.

**MRS GRASSBY** (11.28): The amendments that the Government has to this Bill are very sensible. We do not want to make young people criminals for smoking a cannabis cigarette. We all know how serious it is for young people to have a criminal offence on their sheet. The stigma could stop them getting a job in the public service and in many professions. On-the-spot fines of \$100 will discourage young people from smoking. If every time the police find people smoking cannabis they are fined \$100 it will certainly mount up. The total could be vast. I think people will think a lot more seriously about their actions. We know that the courts are putting on only a fine of \$40, which is nothing. No-one goes to gaol for this offence of having 25 grams, or five plants, and a \$40 fine is nothing. We all know how easily that can be paid each time.

Drugs are serious, and to legalise any drug is serious. This Bill is not doing that. We have two legal drugs, alcohol and cigarettes, and the damage they do to society is much more dangerous than any other drug. We on the Drugs Committee have been told in our public hearings that alcohol and cigarettes are a far bigger problem to society than any other drug, yet we seem to be doing very little about them.

I feel that we should be spending money in schools on training our young people not to be using any drugs. Maybe the money we collect from these on-the-spot fines of \$100 could be put into better education in our schools to teach our young people about the danger of drugs. Then there would be no need for us to be sitting here discussing a Bill such as this. This money could be spent on educating people that drug-taking is a serious path to take. On my trip overseas in the past break, looking at the drug problem in the US and Europe, everyone told me that it was education that was needed - not tougher laws for young people, only for traffickers. I agree with that. I do not think that making the law tougher for young people caught smoking a marijuana cigarette is going to stop them doing it. It will make them bigger criminals if you send them to gaol.

We have not gone soft on the law; we have left three-quarters of the law as it is, but made one part of it tougher by having on-the-spot fines of \$100. I have had my office speak to the police about this Bill and they have said that they would prefer the amendment that the Labor Party has put up. Taking people to the courts for a \$40 fine is nothing. They say that it has no effect at all. They agree that a \$100 fine on-the-spot would be far better. We should be educating young people, they say, on not using drugs.

**Mrs Carnell:** Why?

**MRS GRASSBY:** Come on, Kate; we all know what you say. You say one thing here and another thing outside. I would prefer you to be more honest about how you feel, instead of reading speeches that are not true.

**Mr Humphries:** I take a point of order, Madam Speaker. I think Mrs Grassby said that Mrs Carnell is not being honest about this matter. I think that is unparliamentary.

**MADAM SPEAKER:** She said that she would prefer Mrs Carnell to be more honest. Mrs Grassby, I would like you to withdraw any improper inference from that, and continue.

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**MRS GRASSBY:** I am quite happy to withdraw it, but Mrs Carnell has said a different thing to me from what she is saying in the house. I can only repeat what Mrs Carnell has said to me outside, and that is what I am saying. What she said in the house is different from what she said to me outside.

**Mrs Carnell:** That is not true.

**MRS GRASSBY:** Come on, Kate; it is. As I said, I had my office contact the police on this matter. They would much prefer the \$100 on-the-spot fine.

**Mr Cornwell:** Why?

**MRS GRASSBY:** They find that when someone goes to court and they are fined \$40 it has no effect on them whatsoever. The police believe that there should be more education for young people in not using drugs; that alcohol is a far worse drug; and that much more should be done about it. Young people drinking alcohol and then driving is much more serious than finding somebody with a marijuana cigarette.

We know the harm caused by drugs. The Labor Party does not wish to make young people criminals, but we do not want to legalise drugs. Thus we are leaving the law as it is. The Liberals would rather send young people to gaol and stop them getting jobs because they have a criminal record. We know that young people, if they want to, can do much more damage to themselves by sniffing some products and growing some very dangerous mushrooms. We make young people criminals for smoking marijuana, but we do not make them criminals for sniffing petrol or paint thinners. We send them to the courts where they are fined \$40 for smoking cigarettes, but we do nothing about that which is a lot more serious in many ways.

Changing this law will bring it into the twentieth century. We will not be sending young people to gaol and giving them a record to follow them all their lives; at the same time the pushers and the people who deal in great quantities of drugs will be sent to gaol. All around the world everybody knows the damage caused by drugs and most people in the world are trying to do something about educating young people not to take and use drugs. We need to be looking at that. We need to be looking at giving people a reason not to do this.

**Mr Cornwell:** Why don't you give them some jobs?

**MRS GRASSBY:** We are not discussing that Bill at the moment, I am sorry. This happens to be a Bill that Mr Moore put up and I think that you should attack Mr Moore on that, not me. It is Mr Moore's Bill. All we have is an amendment to the Bill.

**Mr De Domenico:** It is the tail wagging the dog again.

**MRS GRASSBY:** I do not know; he votes with you more times than he votes with us. I have counted them. I think the tail is wagging you.

**MADAM SPEAKER:** Order!

**MRS GRASSBY:** Thank you, Madam Speaker, for bringing them to order. I appreciate that. It is much easier now than trying to talk over the top of the rabble.

The amendments to this Bill are much more sensible than the Bill that Mr Moore introduced. This is a far better way of going about it. To make a criminal out of a young person is a serious thing. It stops them getting a job later on in life in many spheres. We all know that to be caught with a marijuana cigarette and to be taken to court and fined \$40 is absolutely nothing, but you then walk away with a criminal record because you did something once. It does not mean to say that people are going to do it again. Please God, they do not do it again.

We should spend more money on education in schools, starting at kindergarten, about the danger of drugs - not only the illegal drugs but also alcohol and cigarettes. We do not really seem to be doing very much about alcohol and cigarettes, which are far more dangerous to our society. They cost us a fortune in health treatment and time off jobs with alcohol related problems and with cigarette related problems. Not only are people who smoke cigarettes on their way to killing themselves; we who do not smoke but who have to sit in areas where smoking is allowed have to put up with passive smoking. I notice that that is getting through to somebody in the Liberal Party who I understand is a smoker, and it is not making them very happy.

I think that these are far more serious drugs and I would like to see more time and attention put into them by the Liberal Party. Let us see how serious they are. Let the community hear what they think we should be doing about those drugs. If we were able to do something about the legal drugs, then maybe we would not have to worry about hard drugs. The people I spoke to about drugs on my trip said that young people start with cigarettes and alcohol and then that leads to hard drugs. Young people do not start with hard drugs. They start smoking, then they get onto alcohol, and then they eventually get onto harder drugs, sniffing things and doing things that are a lot more serious.

**Mr Cornwell:** Then they join the Labor Party, Ellnor.

**MRS GRASSBY:** No. After they have been in the Liberal Party and found out what a fake that is, they come and join a good party - the party that believes in the rights of people.

**MR KAINE** (Leader of the Opposition) (11.37): I must say that I have been rather fascinated with the debate. I thought that Mrs Grassby's defence of the Labor position was quite fatuous. I listened to other members defending the Labor Party position on this. But let me ask this question: Why are we debating the Labor Party's amendments? This is not an initiative of the Labor Party. Mr Moore brought up this Bill. If Mr Moore had not brought this Bill forward, the Labor Party would not even be here talking about this issue. They would not be putting forward their amendments to try to fix the holes they perceive in Mr Moore's Bill. These Labor people are taking this sanctimonious attitude about this issue, but they did not even bring the matter forward. They saw no need for this. Now they are on the back foot. They are on the back foot because Mr Moore precipitated the debate that they did not want. Now they are being sanctimonious about their attitude towards this matter.

When we really get down to the facts of the matter we see the Labor Party position for what it is - it is a panic reaction. They have been forced to take a position on a matter that they did not even want to debate. If they wanted to take this socially just action that they have been defending, why did they not

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bring forward some amendments to the Act? They did not because they did not see it as a problem. So, when they stand up and talk in their sanctimonious fashion about the position of the Liberals, let us look at their motives and where they are coming from. Although Mr Berry and Mr Connolly defend their position, they are in fact softening the law on this drug.

**Mr Moore:** Nonsense!

**MR Kaine:** They are softening the law on this drug.

**Mr Lamont:** Nonsense! We have increased the penalties.

**MR Kaine:** The penalty is to be a \$100 fine. What you are saying - Mrs Carnell put her finger on it exactly - is that it is no different from a parking offence. If you are caught with a bit of marijuana in your possession or you are smoking it, not only will the existing penalty in the law be imposed, but it will be just an on-the-spot fine. If that is not softening the law, what is? It is putting it in the same category as a parking offence. That is not what the law says at the moment. The law says that if you have this in your possession or if you are using it, in no matter what quantities, it is a criminal offence. You are decriminalising it; you are softening the law. No matter what you say, no matter how you dress it up, that is what you are doing. How anybody in today's world can say that softening the law on drugs is a good thing is absolutely beyond me.

This same Government, which is saying that softening the law on drugs is okay, is at the same time saying that we are clamping down on the use of tobacco. The argument being put by these people over here is that this drug is no more harmful than tobacco. Let us assume that that is a correct statement. I do not believe it. I think Mrs Carnell demonstrated that that is not a fact, but let us assume that it is. How then can you be saying at the same time that we are going to discourage the use of tobacco? In fact, we are even going to ban advertising at sports events. That is the view taken by this Minister; there is to be no advertising of tobacco products by sporting organisations. At the same time the same Minister gets up and says that we are going to soften the law on marijuana. How inconsistent can you get? Either his position is right, that both are harmful, or his position is wrong. In either case he is arguing from a weak point.

I happen to believe, Madam Temporary Deputy Speaker, as do the members of the Liberal Party who have researched the matter thoroughly, that marijuana is a harmful drug. It is a harmful drug. Why then would we support a softening of the law that says that using it is okay and that it is no different from a parking offence?

**Mr Moore:** Because it will reduce the harm.

**MR Kaine:** The Liberal Party does not believe that and the Liberal Party will not support that. We will vote against Mr Moore's Bill and we will vote against the soft attitude of the Labor Party towards this issue. I wish somebody on the Labor Party side would get up and explain why it is that they are not pushing their own viewpoint; they are merely stepping one back from the position that Mr Moore put them in. You should keep him under control better if you do not want to debate this issue.

**MR STEVENSON** (11.43): I see major parallels between marijuana and alcohol. It has been said in America that prohibition did not work. There are some interesting viewpoints on that which have not necessarily been presented in this Assembly. There was a study in 1981 by David Musto in America that showed that during prohibition in America male deaths from cirrhosis of the liver declined during the period 1911 to 1929 from 29.5 per cent to 10.7 per cent. Other alcohol related diseases were also shown to decrease during prohibition. It should also be known that the prohibition law was only half-hearted. It banned the manufacture, transportation and sale of alcohol but not its possession. People who could afford to stock up before the law took effect did so and its use at home was allowable during that time. The rate of drinking appeared to go down during prohibition. There is no doubt that large numbers of people in America did not agree with prohibition, as the referendum in 1933 in America showed, because they agreed with the repeal of prohibition. However, let us look at what we now have in America as a result of harm minimisation of prohibition.

**Mr Moore:** America uses full prohibition. Prohibition is not harm minimisation. Prohibition is harm maximisation.

**MR STEVENSON:** Madam Temporary Deputy Speaker, perhaps I could ask Mr Moore, through you, to let me speak while I have some time to speak. He had an opportunity to present his viewpoint at the start of the debate and he will have an opportunity to present yet another viewpoint at the end of the debate. Perhaps, without so many interjections, I could present a few viewpoints that I would like to put.

There is no doubt that drug use can be minimised in two major ways. Obviously, it depends on what the people think and what the law-makers think, and on how effectively laws are enforced.

**Mr Berry:** Have you done a Dennis poll?

**MR STEVENSON:** Mr Berry talks about polling. I have not polled on this specific matter as yet. The Bill was introduced only on 19 August. I have no intention of rushing out there and doing polls to try to handle the common problem of members of this Assembly of wanting to finalise laws without allowing public consultation. I will vote against Bills until fair consultation with the public is allowed. Later on, after we have polled the area, I may vote yes or no, depending on the results of the poll.

**Mr Moore:** That is because you do not have any election platform. If you had an election platform you would know what to do.

**MR STEVENSON:** Mr Moore mentions that we do not have any election platform. Let us have a look at the specific election platform that we have. Firstly, it is to abolish self-government. Barring that, the major platform was to obey the majority expressed will of the people. I notice that when members, particularly those sitting in seats opposite, mention this fact they never say - and with good reason - that we also said consistently, and put in a declaration, that we will obey the majority expressed will of the people. That is never suggested.

**Mr Moore:** Which you get through polling. We can make any poll come out the way we want it, Dennis. Come on!

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**MR STEVENSON:** Some people also say that we can make any poll come out any way we want it. That is only if you are biased and only if you run it in a biased manner. Some people could suggest, and certainly members of the Labor Party would have suggested, nationally, federally and in the States, that people should have the right of initiative and referendum. Indeed, it was a major Labor Party objective, and a good one. I commend them for that up to 1963 when they took it off the books. That is the way to allow citizens to have a say if some people disagree with polls.

I have had an open offer for people to come along and join us in polling, to have a look at exactly how we do it. I have mentioned a number of times in this Assembly how it has been done. We usually survey between 600 and 1,000 people. Now it is slightly less, but we are also checking it with a telephone poll. How else do you find out the will of the people when they have not been taught that their constitutional right and responsibility is to let members know? Their constitutional legal obligation is to let their members, their elected representatives, know - - -

**Mr Lamont:** Madam Temporary Deputy Speaker, I rise to take a point of order.

**MR STEVENSON:** I find it hard to believe that Mr Lamont, after making so many objections, could raise a point of order.

**MADAM TEMPORARY DEPUTY SPEAKER** (Mrs Grassby): Mr Stevenson, could I hear the point of order, please?

**Mr Lamont:** Madam Temporary Deputy Speaker, I find that the arguments of the speaker are becoming repetitious. I suggest that you call him to account for that.

**Mr Stevenson:** Let us not talk about comments opposite.

**MADAM TEMPORARY DEPUTY SPEAKER:** Mr Stevenson, when Mr Lamont is on his feet taking a point of order I would appreciate it if you would be quiet.

**Mr Stevenson:** Indeed, you are quite right. I should not have done it. I apologise.

**MADAM TEMPORARY DEPUTY SPEAKER:** Thank you, Mr Stevenson.

**MR STEVENSON:** We have an interesting situation in that laws can be enforced when they have the support of the people, when they have the support of law-makers and when there is an intention to enforce those laws. There is one thing that everybody agrees on here today, from what I can see, and that is that marijuana is harmful. Let us look at some of the possible harmful effects of marijuana. There were studies by the National Academy of Sciences in America in the 1980s. They had volunteers on driving-simulator computer machines. They showed that people were adversely affected in their driving skills by taking mild amounts of marijuana before tests.

**Mr Moore:** No, by taking quite large amounts of marijuana.

**MR STEVENSON:** No, minor amounts.

**Mr Moore:** No, large amounts. In this committee report you will find - - -

**MADAM TEMPORARY DEPUTY SPEAKER:** Mr Moore, would you speak through the Chair if you have something to say? Would you let Mr Stevenson - - -

**Mr Moore:** It was simply an interjection, in the spirit of the house. I will take it easy, yes.

**MR STEVENSON:** The same results were obtained when people were driving cars on a closed circuit for that purpose. The problem with alcohol in the USA today is a result of what might be termed harm minimisation or the lack of effectiveness of prohibition. I think it is a relevant point that it is estimated that there are over 100 million drinkers in America, and 10 per cent of them, or 10 million, are problem drinkers. This is the result of prohibition being lifted. This is the problem that, it could be said, the legal status of alcohol has placed on society. When we say that marijuana is no worse than alcohol and there is a debate about that, the point is this: Will decriminalising marijuana use or making marijuana legal increase its use and effects or decrease its effects? If you look at alcohol - they are very good parallels - one could reasonably assume that marijuana use will increase, and that therefore its effects will increase. It is a logical argument.

We are told that, if we do not have marijuana use as a crime but rather as an offence for which you can be given an on-the-spot ticket, we will be able to put those resources towards education. This is another very interesting parallel with alcohol. What has happened with the resources that are not needed for prohibition and the education of people about the harmful effects of alcohol? Just last weekend we had the Australian Medical Association referring in newspapers around Australia to the alarming and horrendously high level of drinking, particularly of spirits, among young people. The number of drinks, particularly of spirits, that young people are taking is extremely high.

I see no logic in the suggestion that marijuana smoking will decrease after its progressive decriminalisation and legalisation. On the contrary, I think that people will be more inclined to use it. The suggestion that the illicit nature of something increases its use was shown by the prohibition amendment Acts in America not to be true. We have had more drinking since that time. We have vastly more problems. Anyone who has studied the social problems in Australia and in Canberra will know that many of them are caused by alcohol. In America Enoch Gordis, director of the National Institute of Alcoholism and Alcohol Abuse, estimated that 25 to 40 per cent of patients in hospitals on any given day were suffering from alcohol related diseases. He said that these included diseases of the liver or the heart, gastrointestinal disorders and mental disorders.

There is a difference between pot or marijuana and other drugs. When we talk about marijuana decriminalisation, it is interesting to ask: Which of the 421 chemicals are we talking about? The definition of marijuana could well become relevant in a legal situation. We have enormous problems with alcohol. Alcohol in Australia is, of course, legal. The number of different alcoholic beverages on the market is astounding, as will be ascertained by going into any liquor store or bottle shop. Who would say that there is no possibility of this occurring within the marijuana area, looking at the fact that there are so many different drugs under that particular name?

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I think that we should put resources into educating the youth of Canberra. We should educate them in something that we all agree on - that marijuana is harmful. Why can we not look at parallels with the legalisation of alcohol and the legalisation, eventually, if we keep moving along this road of decriminalisation, of marijuana?

**Mr Moore:** We can.

**MR STEVENSON:** Mr Moore says that we can. I look forward to hearing - - -

**Mr De Domenico:** The Government's commitment to an education program.

**MR STEVENSON:** Exactly. But is the education program on alcohol really working? It is available to young people. Certainly it is against the law, if they are under age, to go onto premises. But boy, are these things hard to handle! We have the other major problem in Australia of people driving while they are under the influence - the influence of any drug. Committing no offence whatsoever, you can be stopped by police and they can check whether you have alcohol in your bloodstream. Marijuana also affects people. There have been cases where people under the influence of marijuana have decided to get out of a motor vehicle when it was travelling at a high speed. There are cases that these particular - - -

**Mr Moore:** That sort of research, Dennis, is pretty inadequate. That is the sort of stuff you rely on.

**MR STEVENSON:** Not at all.

**Mr Moore:** Yes, it is reported.

**MR STEVENSON:** Yes, and well reported. One of the problems with trying to deal with people who have been on marijuana is that it tends to have an effect on a person's track of knowledge, or memory, turning it into something like a film projector going haywire and spilling film all over the floor of a projector room. This tends to create major problems. I have experience in this area, having worked with some people who have had problems caused by that.

When we talk about imposing \$40 and \$100 fines, one wonders at the same time about someone who has an illegal tape recording in their pocket if the listening devices Bill goes through. That person, for having an illegally taped recording of somebody, could be fined \$20,000 and receive two years' imprisonment; whereas if they had marijuana in the other pocket they might be fined \$40 or \$100. I will vote against the Bill because there has not been time for fair consultation in the community on this specific law.

**MR LAMONT (11.58):** I wish to speak only very briefly. Madam Speaker, I have listened to the debate with some interest, having taken account of the history of the question of legalisation of marijuana in the ACT for the considerable period that the debate has been around. Today the Opposition has put forward its argument against the reasonable approach which has been adopted by the Government and which I hope will be adopted by this Assembly. The Opposition's attitude has not been determined by a considered investigation of the question or consideration of the significant body of evidence that is available. It has been determined pursuant to the edicts outlined in *Weekly Hansard* of 12, 13 and 14 May, at pages 509 to 517. For the edification of those people in the gallery, Madam Speaker, that means the ACIL document.

**Mr Kaine:** I raise a point of order, Madam Speaker. Is the member supposed to be addressing the gallery or is he supposed to be addressing this Assembly? He is not supposed to be playing to the audience.

**MADAM SPEAKER:** Thank you, Mr Kaine. Mr Lamont, would you please address your comments to me.

**MR LAMONT:** Thank you, Madam Speaker. At least I pay respect to the Chair and face the Chair when I am speaking in this chamber, unlike some other people. Madam Speaker, it is interesting to note, given the history of the Liberal Party as enunciated in the *Canberra Times* of 3 March 1991, when Mr Humphries, who currently is not interested enough to be in the Assembly -  
- -

**Mr Moore:** It is a bit embarrassing for him.

**MR LAMONT:** Yes, it probably is.

**Mr Wood:** I wonder why he is not speaking in this debate.

**MR LAMONT:** I do not know. I thought it might have been the silver fox playing a trick again - getting the boys and girls on the backbench to start the issue running, then sitting back, letting them embarrass themselves, and knocking another one over. I suppose that he really needed to let Mrs Carnell go because on 3 March 1991 Mrs Carnell was not a member of the Liberal Party. I do not suppose she was involved in coming to this position.

Madam Speaker, the whole thrust of the Opposition's objection to this Bill, this necessary reform, is based on a very simple premise, and that is contained in the ACIL document. It basically says that, no matter how good, how progressive, or how reformist the Labor Government becomes, members of the Liberal Party have to stand up and show that they are not going to give the Chief Minister flowers on Valentine's Day; they are not going to allow Mr De Domenico to kiss her hand when she comes into public forums; they have to stop this; they have to stop being silly little boys and girls; they must show that they are an opposition and they must object for the sake of objecting. That is exactly what these people have done. I believe that the way in which they have attempted to give the impression that this Government is about the legalisation of marijuana has been outrageous. That is what they have attempted to portray, and that is wrong.

The amendment which will be put by the Attorney this morning will allow for proper reform in this area. It will say that a person who may be experimenting, and may be doing nothing more, will not be subject to a criminal offence if taken and charged under this law. This is proper law. It is a proper way for us to proceed. I believe that the Opposition should be condemned for the way in which they are treating not only this Assembly but also the people of Canberra by misrepresenting what is occurring here today.

**MR CORNWELL (12.02):** Madam Speaker, I must say that I dislike the use of euphemisms - comments such as "terminate with extreme prejudice" and "pass away". Now we have "harm minimisation". This is a euphemism for the decriminalisation of a harmful drug. It is no use arguing, Mrs Grassby, that because the smoking of cigarettes is legalised we should say, "Well, cannabis is too hard to deal with as well, so let us legalise it". Where do you draw the line on that? If incest, wife beating or child pornography is all too hard to control, is the

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answer, Mr Moore, to legalise it? This is an absurd argument. We know that there is gross hypocrisy in relation to cigarette smoking and the legalisation of that; but successive Federal governments have never had the guts to do what they should do, and that, of course, is to ban tobacco products. They make revenue out of it, but at the same time they piously stand up and complain about the evils of it. I do not accept it.

Mr Moore has just advised me that I do not have much time. The reason for this performance by the Government against our opposition to this legislation is that the Government members - all 10 of them - are running scared on this issue because they know that the majority of the electorate out there do not support what is being put forward. Your social agenda is not supported by the vast majority of the people of the ACT. You will find that out, my friends, to your cost, at the next election. Hence your criticism, which was particularly apparent from Mr Berry's comments, of our position. You want us to join you on this issue under a peculiar flag - this flag of convenience that you call social justice.

**Mr Berry:** I just want to show up the hypocrisy.

**MR CORNWELL:** Do not talk to me about hypocrisy, please.

**Mr Berry:** No, I could not teach you anything about hypocrisy.

**MR CORNWELL:** Do not talk to me about hypocrisy, Mr Berry. Your own stand on cigarettes is sufficient. Why have you not the guts to ban them coming into this Territory? You are the Minister for Health. Why have you not the guts to do it? No; you would rather stand up and pontificate piously.

**Mr Kaine:** He will equivocate about banning advertising.

**MR CORNWELL:** That is right. You will ban the advertising of them, but you have not the guts to ban cigarettes coming into this Territory. So, please, do not talk to me about hypocrisy. The real issue here is: Dealing with this question of cannabis is all too hard, so let us legalise it. In the meantime, of course, we will again talk piously about educating young people that they should not smoke it.

**Mr Kaine:** Where is your education program?

**MR CORNWELL:** We have not seen that, Mr Kaine; we have not seen their education program. That is another one that is in the pipeline. Like everything else in the health budget, it is all coming forward; it is somewhere in the pipeline. If you want to do something about this problem of young people smoking cannabis, I suggest that you give them a purpose in life; concentrate on something that is really important, and that is the provision of jobs in this Territory for those young people. Then they will have some decent purpose in life and perhaps you will not need to pontificate about educating them on something which I believe many of them are turning to in sheer desperation.

**MR MOORE** (12.06), in reply: I will make a couple of comments in reply, very quickly. I point out to members that the medical implications of cannabis use are well documented. The harmful effects of cannabis, which nobody is disputing, are set out very carefully in the report of the committee that I chaired and which I brought down last October. One of the things that were very difficult in sorting through the evidence is set out in that report. I refer to a paper by L.E. Hollister, "Health Aspects of Cannabis", in *Pharmacological Reviews*. I am sure that pharmacists will be very interested in it.

One of the difficulties with studying cannabis use is that the ambiguities associated with its use may be attributed to four factors. Firstly, it is difficult to prove or disprove health hazards from animal experiments, and their ramifications then for people. Secondly, cannabis is still used mainly by young people who are in good health. Thirdly, cannabis is often used in combination with tobacco and alcohol, so those are compounding factors. Finally, the issue of cannabis use is so laden with emotion that serious investigations have been coloured by the prejudices of the experimenters. That one is very important. We did go on in our report to talk about chromosomes, cell metabolism, immunity, the reproductive system, the central nervous system, the pulmonary system, and the cardiovascular system. So a quite sensible understanding of the health aspects can be gained there, and there are harmful effects from its use.

In terms of prohibition - this sums up the arguments really - Mr Stevenson referred to alcohol prohibition. He says that if we let alcohol go we will get the same problems that they had in the United States. I think that is correct. That is why nobody is advocating what happened in the United States when prohibition ended and they said that it should be a free-for-all. Nobody in this house has ever advocated that. The mistake they made when they withdrew prohibition in the United States was to allow a free-for-all. They should have allowed restricted access. This is the most restricted access of all. There is restricted advertising - the sort of restrictions that are now applying to tobacco. We should not throw other illegal drugs into that sort of a sphere and then try to put restrictions on later. If you continue with prohibition you will increase usage. If you allow restricted access, you might start to solve the harm associated with those drugs - the organised crime and the personal health harms associated with the drugs.

I say, particularly to the Leader of the Opposition, that it is a perfectly consistent approach, and a perfectly logical and rational one. I think he has heard me speak on this before. Madam Speaker, I am delighted to accept the comments of members. I refer them to the South Australian evaluation of this. I accept and will support the amendments to be put by Mr Connolly.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

*AYES, 10*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

*NOES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

Question so resolved in the affirmative.

Bill agreed to in principle.

### Detail Stage

Clauses 1 and 2 agreed to.

Clause 3

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (12.13), by leave: I move:

Page 2, line 5, proposed new subsection 171A(2), omit the subsection, substitute the following subsection:

"(2) Where an offence notice is served on a child and the police officer serving the notice reasonably believes that the child is residing with a person who stands in *loco parentis* to that child, the police officer shall serve, or cause to be served, a copy of the notice on that person."

Page 2, line 12, proposed new paragraph 171A(3)(b), omit "day", substitute "date".

Page 2, line 15, proposed new paragraph 171A(3)(c), omit "scheduled", substitute "prescribed".

Page 2, line 18, proposed new paragraph 171A(3)(d), omit "scheduled", substitute "prescribed".

Page 2, line 19, proposed new paragraph 171A(3)(e), omit "scheduled", substitute "prescribed".

Page 2, line 22, proposed new subsection 171A(4), omit "scheduled", substitute "prescribed".

Page 2, line 33, proposed new subsection 171A(5), omit "scheduled", substitute "prescribed".

Page 3, line 7, proposed new subsection 171A(7) (definitions of "scheduled penalty" and "simple cannabis offence"), omit the definitions, substitute the following definition:

"'simple cannabis offence' means -

- (a) an offence under subsection 162(2) of cultivating, or participating in the cultivation of, not more than 5 cannabis plants; or
- (b) an offence under subsection 171(1) of possessing not more than 25 grams of cannabis."

Page 3, line 10, proposed new section 171A, at the end of section 171A, add the following subsection:

"(8) In relation to a simple cannabis offence, the prescribed penalty is \$100."

Madam Speaker, the amendments essentially do what was said in the in-principle debate, that is, modify Mr Moore's proposed law so that the on-the-spot fine applies only to the existing penalty regime of \$100 for 25 grams or five plants. This is effected in the proposed amendments to clause 3, and by deleting the mechanism in the Bill before the Assembly of a schedule of offences and penalties. The offences range up to the possession of 100 grams in some cases. We seek to insert a prescribed penalty, being \$100 in all cases, and omit the definition of "simple cannabis offence". In Mr Moore's Bill that definition covered a range of cannabis offences. We seek to substitute the two specific offences of cultivating not more than five plants and possessing not more than 25 grams. We also seek to delete the schedule, which is no longer necessary given these reforms.

Two minor procedural matters also are picked up in the amendments. Amendment No. 1 to clause 3 picks up a potential problem with the mechanism in Mr Moore's Bill for service of an on-the-spot fine in the case of a person under 18. Mr Moore's intention was that it go to a parent. We have tidied that up. The Bill says that it goes always to the person living with the person under 18, which could be the spouse of a person under 18 who is married, or the de facto, or the parent in every case. We are requiring it to be served on the person who is the parent, or who is standing in the role of the parent, if they are, in fact, in that relationship with the child. The other minor matter is that the current Bill would require the day to be specified on the notice. We are requiring that the date be specified on the notice. Madam Speaker, these amendments, being moved as a block, change Mr Moore's Bill, which covered a range of cannabis offences, and lock it into the existing law.

**MR MOORE (12.15):** Madam Speaker, I accept these amendments. I did so in negotiations, Madam Speaker. I think the original Bill was more effective in achieving what I wanted; but I am pragmatic enough to accept that this still will do the most important thing, which is protect kids, in particular, from the harm of winding up with a record in the courts, and the ramifications of that.

Amendments agreed to.

Clause, as amended, agreed to.

Clause 4 negatived.

Proposed new clause 5

**MRS CARNELL (12.16):** I seek leave of the Assembly to amend the amendment that has been circulated in my name by omitting "and Schedule 6".

Leave granted.

**MRS CARNELL:** I move:

Page 3, after clause 4, add the following clause:

**Operation of amendments**

"5. Section 171A of the Principal Act as amended by this Act shall cease to have any force or effect at the expiration of 3 years after the commencement of this Act unless, within the period of 2 months immediately preceding that expiration, the Legislative Assembly has passed a resolution to the effect that those provisions should continue in operation."

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**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (12.17): The Government will not be supporting this amendment. This may have made some sense if it was proposed to a Bill which made far-reaching reforms to the law in the ACT. The Bill, as agreed to by the Assembly to this point, the Government's amendments having been accepted, leaves the existing penalty regime in place. It is pointless, therefore, to have a sunset clause for what are the existing penalty regimes. All laws in the Territory are constantly reviewed. It is the prerogative of any private member at any stage to move for repeal or to change any law in the ACT. This proposal is simply unnecessary.

As Mr Moore pointed out, the Liberals seem to think it is necessary to have a sunset clause in this legislation which is effecting some change yet not necessary to have a sunset clause in their own drug law - the pharmacy methadone Bill - which would allow a junkie in every shopping centre. They want no sunset clause there, but a sunset clause here. One must suspect, Madam Speaker, that this is not a serious suggestion that the Assembly needs to review a law, which, of course, it can always do, and which any private member can move for, but rather a political stunt to try to again peddle some of this nonsense around the time of the next election. They are welcome to peddle their nonsense because we know that the community will reject it.

**MR HUMPHRIES** (12.19): Madam Speaker, I think Mr Connolly knows in his heart of hearts that what he has said today, and elsewhere, about this Bill is a little harder to sell in the community than what we have said today.

**Mr Connolly:** As opposed to what you said 18 months ago.

**MR HUMPHRIES:** The fact of life is that even I acknowledged, at that time, that these were significant changes to make to the law of the Territory. It is one thing for you to get up here today and say that these changes are important to make, that they are valuable reforms and that they are progressive, in Mr Berry's words; it is another thing to say that they are so insignificant in the effect they have on the law of the Territory that we have no need to review the situation in three years' time.

**Mr Connolly:** You can always review it.

**MR HUMPHRIES:** That is what you are saying. If we are going to review it in three years' time, let us put in the Bill the mechanism to force the Assembly to face fairly and squarely again the question as to whether it will renew this Act, leave it as it stands, or wipe out these amendments because they are not considered appropriate any longer.

Madam Speaker, this is important. This is an important amendment. I believe that those of us in this community who wish to see what effect this change has on the law and on the community should be able to force this thing to come back before the - - -

**Mr Berry:** Any time that you want to do something about it, use private members business.

**MR HUMPHRIES:** We know what your program is like. We know what a mess your program is. We know that in three years' time you will not be sitting over there. You will be sitting over here and we will be sitting over there. The point is that if you are going to look at a piece of legislation as far-reaching and as controversial as this is - nobody in this chamber should fail to acknowledge that - we should be setting up the mechanism in the Act to provide for proper review, not just by this Assembly but by the whole community. This would put a deadline on the Act. It would force the Assembly to consider this issue in three years' time. The question is not whether it suits the Government or not, or whether it is up to the Opposition to raise this matter again. It is a question of putting this up in this form. I believe, Madam Speaker, that if the Government were really serious about acknowledging the enormous concern that these provisions are causing in the community they would acknowledge that we have a point and that we ought to be supported in this amendment.

**MR KAINE** (Leader of the Opposition) (12.22): I support the comments of Mrs Carnell and Mr Humphries on this matter. This is not an insignificant matter. I made the point before, Madam Speaker, that the Government finds itself in this position only because they had to back off on what Mr Moore was proposing. They had somehow to ameliorate that. They were not too comfortable with what Mr Moore had initiated. They knew that if they supported him they were going to have to wear the consequences. So they had to soften it a bit. This is their way of attempting to soften it. I would have thought that they would have been just as concerned about the long-term ramifications of this change as we are. They seem to be proceeding on the assumption that the changes will only be beneficial, but the evidence throughout the world suggests that when this sort of change is made it is not always beneficial. There is good evidence to suggest - - -

**Mr Moore:** The evidence suggests the opposite. Quote one example.

**MR KAINE:** Alaska is one.

**Mr Moore:** I am glad you mentioned that because that is not right.

**MR KAINE:** I am not debating this with you; you have had your say. Mr Moore keeps jumping up and saying, "Have a look at the South Australian experience". It might be marginally better in South Australia than it was some years ago, but the situation there is still relatively worse than it is in New South Wales. But Mr Moore does not tell you that. He just says, "Look at what happened in South Australia".

The Government have taken this responsibility on their shoulders. They have lumped themselves with Mr Moore's proposal and have backed off a little because they did not like what he was saying. They say, "We have to protect ourselves a little bit in this respect. We have to live with our party platform, but we have to soften it as far as we can and not be stuck with the stigma of what Mr Moore is proposing". I suggest that there is some merit from your standpoint in supporting this. You may find out that the net effects are not beneficial at all.

Mrs Grassby said, "They should be educating youth about the use of this drug". You are a member of the Government, Mrs Grassby. Where is the Government's program for this? I agree with you entirely. If we left the law as it stands today and embarked on a proper education program you might get some long-term benefit. But I do not see anything from your Government, Mrs Grassby. I do not

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see any initiative by your Government for an education program. If it is, where is it hidden? Is this going to be hidden in the 2 per cent across-the-board reduction in your budget somewhere that nobody will be able to find? If the Health Minister will not tell us, maybe Mr Wood, the Education Minister, will get up and tell us where your education program on the effects of the consumption of this drug is hidden away.

I would think, Madam Speaker, that the Government, in self-interest and self-protection, would support this sunset clause that says that in three years' time we look to see whether the beneficial effects that we think are going to flow from this in fact do flow from it, and if that result is not a beneficial result to this community we will drop the whole experiment. I ask the Government not to be bulldozed into this by Mr Moore. Take an independent stand, Mr Connolly. Do not be dictated to by Mr Moore on this issue. Let us see the Labor Party show some guts and some gumption. Take your own independent stand on this and support the Opposition in this very reasonable and sensible proposal that in three years' time we look back over our shoulder to see what happened.

I do not think that any reasonable man in the street could take an opposing view to this very sensible proposal. Madam Speaker, this is the last opportunity that the members of the Government have to be sensible and reasonable on this. I implore them to take a long, deep breath and to think about it before they vote.

Question put:

That the proposed new clause be inserted in the Bill (**Mrs Carnell's** amendment).

The Assembly voted -

*AYES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

*NOES, 10*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

Question so resolved in the negative.

Remainder of Bill, by leave, taken together

Question put:

That the remainder of the Bill be agreed to.

The Assembly voted -

*AYES, 9*

Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

*NOES, 8*

Mr Berry  
Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

**Mr Berry:** Madam Speaker, pursuant to standing order 165, I request that the Assembly proceed to another vote.

**MADAM SPEAKER:** It is now 12.30, but we can keep going because we are between votes.

**Mr Stevenson:** But we are not between votes. Is there to be a new vote?

**MADAM SPEAKER:** Mr Stevenson, we are between votes. We will continue. We are taking the vote again.

Question put:

That the remainder of the Bill be agreed to.

The Assembly voted -

*AYES, 10*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

*NOES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

Question so resolved in the affirmative.

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

That so much of the standing and temporary orders be suspended as would prevent the Assembly from resolving any questions relating to the consideration of order of the day, No. 1, private Members' business, concerning the Drugs of Dependence (Amendment) Bill (No. 2) 1992.

**MR Kaine** (Leader of the Opposition) (12.32): Madam Speaker, I wish to speak to that motion. I think that this is a gross abuse of the standing orders. I do not think it is proper for a member of the Government to move such a motion that has to do with private members time.

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

That the question be now put.

**MADAM SPEAKER:** Mr Moore has asked that the motion be put. I think it is an infringement of Mr Kaine's right to speak to the motion. When he has finished speaking we will move on it.

**MR Kaine:** Thank you, Madam Speaker; I appreciate that. Here we have a situation where the Government has suddenly become sanctimonious again and is defending the rights of the private members in this Assembly. They do not seek to ask whether it is the wish of the private members to do this. The Minister, for his own interest, presumably, springs to his feet and moves a motion that has to do with private members business. I would expect, Madam Speaker, that he is out of order and his motion ought to be rejected out of hand.

Question put:

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

The Assembly voted -

*AYES, 10*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

*NOES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

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

Question put:

That this Bill, as amended, be agreed to.

The Assembly voted -

*AYES, 10*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

*NOES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

Question so resolved in the affirmative.

**Sitting suspended from 12.36 to 2.30 pm**

### **QUESTIONS WITHOUT NOTICE**

#### **Assembly Precincts - Police Investigation**

**MR KAINE:** Madam Speaker, I address a question to you. Yesterday two police officers from the fraud squad were, I understand, on the Assembly premises and they entered a member's office to take photographs of a facsimile machine and to pursue an investigation instigated by the Government. I ask you: Is it not the case that the police have no power to enter the Assembly precincts in the ordinary course of their duty without the consent of the presiding officer? Secondly, has a breach of privilege occurred in that members of the AFP did in fact enter the Assembly precincts without your approval and certainly without the knowledge of members of the Assembly? Thirdly, what action do you propose to take to prevent a recurrence of this and to ensure that members are kept informed of police movements in the Assembly precincts, particularly if the police are here at the behest of a paranoid Labor government?

**MADAM SPEAKER:** In answering this question I should advise members that there does exist a protocol for AFP access to the precincts of the Assembly and that this protocol was reaffirmed with Australian Federal Police officers by me at the commencement of the sittings this year. This protocol does indeed govern access to this building and the Assembly precincts. This morning I was approached by the Australian Federal Police by telephone for permission to enter the building today, which permission I gave. They informed me that they had been in the building yesterday and that they believed that that was in accordance with the protocol that existed.

### **Eagle Hawk Hill Resort Motel - Water Supply**

**MR MOORE:** My question is addressed to Mr Connolly as Minister for Urban Services. It is a question which I gave him notice of yesterday. Is the ACT Government going to provide reticulated water across the border to the Eagle Hawk Hill Resort Motel? What will it cost the ACT in the short term and the long term, and who will pay these costs?

**MR CONNOLLY:** We have been approached by the Eagle Hawk motel and tourist development people, who say that they would like to purchase water from us on the basis that they pay the full cost of supply, so that no public funds would be involved. But no decision has been made by the Government as to whether that will occur. Water supply is a matter that has been before the South East Economic Development Council on a number of occasions because there are economic benefits for the region. There are, of course, planning difficulties which my colleague Mr Wood is well aware of. We obviously do not want to encourage ribbon development or strip development on the fringes of the ACT. Whether or not we supply that tourist facility with water is a matter that the Government will consider in due course.

**MR MOORE:** I ask a supplementary question, Madam Speaker. You touched on the notion of precedent, Minister. Will you consider the importance of setting a precedent that would allow those engaging in ribbon development around the area to argue that it would be appropriate to extend a water supply to them? Would this not encourage planning difficulties?

**MR CONNOLLY:** Obviously, that would be a problem. But I do not subscribe to an absolutist view that no service ought ever to be supplied across a State border. That sort of absolutist State view in the past has resulted in radial electricity and water supplies from one State capital to outlying regions when it would have been far more sensible to do a cross-border arrangement. As we are obviously committed to the south-east regional economic focus, there may be occasions when cross-border supply is appropriate. But the point is well made that it would have to be looked at very carefully. The risk of planning and development problems flowing from the encouragement of ribbon development is very clear, so any application would be looked at on its merits. The premise would be that no ACT public money would be involved.

### **Government Service - Provision of Information to Assembly Members**

**MADAM SPEAKER:** I call Mr Humphries.

**MR HUMPHRIES:** My question - - -

**Mr Stevenson:** I raise a point of order, Madam Speaker. Standing order 44 says:

When two or more Members rise to speak the Speaker shall call on the Member who rose first.

I think in this case I was clearly ahead of Mr Humphries.

**MADAM SPEAKER:** It depends entirely on whom I see first. In this case it was Mr Humphries.

**MR HUMPHRIES:** My question of the Chief Minister concerns her Government's paranoia with, and witch-hunt against, public service whistle-blowers. Is it true that a directive has been issued to all ACT Government Service officers, requiring them to inform Ministers' offices of every occasion that publicly available factual information is supplied to non-executive members of this Assembly? Will the Minister produce this directive, if it exists, and will she table it in the Assembly? Why has it been issued and why is the Government using public servants to assist her to spy on all non-executive members of the Assembly, including her own backbenchers?

**MS FOLLETT:** Madam Speaker, to answer Mr Humphries's quite ridiculous question in the shortest possible time, the answer is no.

**MR HUMPHRIES:** I ask a supplementary question, Madam Speaker. Does the Chief Minister mean no, she will not table the directive or no, there is no directive?

**MS FOLLETT:** It is his question, Madam Speaker. The answer is no.

### **ACTION Bus Drivers - Licence Testing**

**MR STEVENSON:** My question is addressed to Mr Connolly. My information is that ACTION is testing drivers for licences in an inappropriate vehicle. These tests are done in-house, when other drivers in the ACT are required to be tested at motor registries. I believe that when ACTION use their own vehicles they issue licences in the HB, or heavy bus, category, which would be over 15 tonnes gross vehicular mass. I believe that in these cases the tests are being done not in heavy duty buses but in LBs - light buses under 15 tonnes. Apart from legal consequences that could possibly arise from this situation, there is also the concern for good driver training. I ask the Minister to please indicate what exactly the testing procedures are. Is there any reason for the apparent irregularities?

**MR CONNOLLY:** Mr Stevenson informed my office that he was interested in this matter. I have had the matter investigated. ACTION drivers have a very good safety record in this town and we are very well served by our fleet drivers. Indeed, last year an ACTION driver won a bus driver skills competition which was held in Adelaide and involved all municipal transport fleets in Australia. So the skill level is very high.

My advice is that all requirements of the national licensing system are complied with. But what Mr Stevenson says is correct. The final test is done on the standard ACTION bus, the non-articulated bus. Drivers do learner driving and practical driving in the articulated bus, but the actual tests are done not in the articulated bus but in the standard bus. I am advised that that is consistent with the requirements. What I propose doing is setting that out in writing, because it is a rather detailed issue that requires reference to several schedules of the national licensing provisions. I will pass that information on to Mr Stevenson. My advice is that we are complying in all regards. In so far as Mr Stevenson is concerned about the safety of Canberra citizens, I can assure him that the highest standards of skill apply within that organisation.

### **School Laboratory Assistants Dispute**

**MR LAMONT:** My question is directed to the Minister for Education and Training. Has there been any progress towards resolution of a dispute between your department and the Public Sector Union concerning the classification of school laboratory assistants, and when do you expect work bans to be lifted, if in fact the dispute has been resolved?

**MR WOOD:** Bans were applied by laboratory assistants in high schools and colleges. They were lifted on Monday or Tuesday of this week. The Public Sector Union was seeking extra conditions. They were claiming that this was a more skilled occupation. The Education Department had made some offers to the PSU which that union had not accepted. However, there is now agreement that the science teacher classification will be the subject of a study by an independent authority. On that basis the bans have been lifted and matters have been restored to normal in that area of the schools. In due course the study will report.

### **Assembly Precincts - Police Investigation**

**MR CORNWELL:** Madam Speaker, my question is directed to you. I refer to the presence in the Assembly yesterday of police officers who photographed equipment and pursued an investigation in a member's office. When did you, Madam Speaker, first become aware of the presence of these officers in the Assembly yesterday? When did the member involved first know about the police visit? Did Mr Berry - it was in his area; it was a health matter - or any other member of the Assembly inform you, Madam Speaker, that police would be attending the Assembly building for the purpose of conducting an investigation involving the alleged leak of budget papers? Finally, has Mr Berry or any other member breached privilege in that they did not inform you, Madam Speaker, about the presence of police on Assembly premises yesterday?

**MADAM SPEAKER:** Thank you for the question, Mr Cornwell. I will take that one on notice.

### **RSL Retirement Village**

**MS SZUTY:** Madam Speaker, my question is for the Minister for the Environment, Land and Planning, Mr Wood. The newspaper of the Returned and Services League, in its August edition, states under the heading "ACT Retirement Village":

The ACT Minister for Lands has reopened negotiations with the branch regarding the grant of land on the shores of Lake Ginninderra.

The article goes on to say that the boundaries may have to be redefined and that the land would not be a grant but may be released at commercial prices. Could the Minister inform the Assembly whether this is the same parcel of land which he, in the previous Assembly, said was not suitable for the development of a retirement village? Could he also indicate under what conditions the ACT Government would consider granting a lease for the RSL to build a retirement village on the shores of Lake Ginninderra?

**MR WOOD:** Madam Speaker, I do not believe that it is entirely the same parcel of land that was under consideration before. The RSL had claimed an area of land extending well down to the shoreline of the lake, and that was not acceptable. It was not acceptable to my leader when she was Minister for planning some years ago, and it was not acceptable to me. After negotiation with the RSL, instead of a rectangle stretching down to the lake, we discussed a rectangle stretching at right angles to the lake. Its distance from the shoreline of the lake would be something like 150 metres. That boundary is consistent, I might add, with the proposal that Mr Lamont has raised to protect the lake foreshores. That area is still under negotiation; nothing has been settled at this stage.

Ms Szuty asked a question about conditions. That is also a matter that we will be negotiating with the RSL. The pattern has tended to be that retirement villages are provided by the commercial sector in some circumstances or by community bodies in others. Nevertheless, they tend to supply the same market - that is, ordinary Canberra citizens. In this case they would be ex-diggers. But the fact that they are ex-diggers does not mean that they are necessarily poor ex-diggers. We have to look at the conditions on which we provide that land. It is certainly a prime piece of real estate in the ACT, and it is not one that we would necessarily give at a concessional rate for people who may well have substantial capital or some income. It is a matter that I have a considerable interest in. I can say no more than that we are beginning to negotiate with the RSL about those conditions. The overriding aim would be to provide appropriate housing but to protect the interests of the ACT.

### **Crane Drivers Dispute**

**MR WESTENDE:** My question is directed to the Attorney-General, Mr Connolly. Can the Minister explain to the Assembly how a million dollars worth of cranes were allegedly appropriated by a union representative over a week ago and deposited without authority at the Mugga Lane tip? Can the Minister further advise what the Government's attitude is and how a site shed can be deposited on land leased by Canberra Cranes in Barrier Street, Fyshwick, without the lessee's permission? Would the Minister agree that it is totally undemocratic and repulsive to be threatened by union representatives in case action is taken by Canberra Cranes to have this obstacle removed? Does the Minister condone the union's scant regard for the law in this case?

**MR CONNOLLY:** Madam Speaker, that question throws up two very disturbing aspects of Liberal Party ideology. One is a tendency to union bash and the other, which I find much more disturbing, is a tendency to seek political interference in police operational matters. There has been a dispute between Canberra Cranes, a private company, and a trade union in the ACT which, as I understand it, revolves around the failure of the company to pay redundancy provisions

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provided in the award. I am particularly disturbed, Madam Speaker, that the Industrial Relations Commission has made recommendations which the company refuses to comply with. As members opposite know, from time to time I am at cross-purposes with certain members of the union movement; but in my discussions with the union movement, and even in debates when we have them, I comply with the Industrial Relations Commission, as they do. What the umpire says goes. That is the way the union movement operates; that is the way this Government operates. This company does not.

As a result of the dispute, some person or persons unknown apparently moved a crane and a site shed - the sort of thing which occurs from time to time. The principal of the company, as I understand it, asked for the Federal Police to press charges. The Federal Police, as I understand it from the report that I have from the principal of the company, declined to do so. The Federal Police in this town, in common with police forces throughout Australia consistently under Liberal and Labor Federal governments and Liberal and Labor Territory governments, have adopted the view that they will exercise discretion in policing and not confuse industrial relations with breaches of the criminal law.

From one perspective, Madam Speaker, almost every industrial action, every picket, can involve some form of breach of the criminal law. A case of common assault - a mere threat - can easily be made out. The police, under Labor and Liberal, have taken the view that they did in this case. The police decision was a police operational decision. I had no part in it. Indeed, the police have not themselves advised me of that decision. I was advised by the party principal to the industrial dispute, who is seeking to whip up some anti-unionism out of this.

I have no intention of interfering with that police operational decision. I would not direct the police either to press charges when they felt that they should not or not to press charges when they felt that they should. That is entirely a matter for the police. The decision that they have made, Madam Speaker, is consistent with a longstanding practice in this Territory under governments of either political persuasion. It is very disturbing if the local Liberal Party, hell-bent on a union confrontation ideological agenda, is now upping the ante by saying that we should have police involvement in industrial disputes.

**MR WESTENDE:** I have a supplementary question. My last question was: Does the Minister condone the union breaking the law in depositing site sheds on people's personal property?

**MR CONNOLLY:** I have no knowledge as to who did what - only of a series of allegations from the party principal.

### **ACTEW - Youth Employment**

**MS ELLIS:** Madam Speaker, my question is directed to the Minister for Urban Services. This question is in light of much discussion and controversy over past months regarding youth unemployment. What is ACTEW doing to provide employment opportunities for the youth of the ACT?

**MR CONNOLLY:** I thank Ms Ellis for the question. It is a most timely question because it coincides with an announcement today. The ACTEW board met today. Mr Kaine was furiously interjecting this morning, "What are you doing about unemployment? What are you doing about unemployment?".

**Mr Kaine:** Well, what are you?

**MR CONNOLLY:** Let me tell you. The ACTEW board today has announced that its apprenticeship intake - - -

**Mr Kaine:** Don't tell us what ACTEW is doing. What are you doing?

**MR CONNOLLY:** ACTEW, the statutory authority, for which I am the Minister responsible, will be taking on - - -

**Mr De Domenico:** The same ones who give the over-award payments - - -

**MADAM SPEAKER:** Will the Opposition members cease interjecting, please. I cannot hear Mr Connolly.

**MR CONNOLLY:** Thank you, Madam Speaker. ACTEW will be taking on eight apprentices over the next 12 months, which is the same number as they took on over the last 12 months. This is in a climate where around Australia, the vocational training authorities tell us, the private sector is dramatically contracting the number of apprenticeships. ACTEW has been able to continue to offer those eight apprenticeships. At the end of this year seven fourth year apprentices within ACTEW will be leaving the organisation. By taking on eight next year, ACTEW will increase to 38 its number of apprenticeships.

A particularly pleasing aspect of ACTEW's apprenticeship training program is that, of the apprentices who terminated their training last year - that is, the fourth year apprentices who left at the beginning of 1992 - over half are employed in the private sector. So, Madam Speaker, the public sector, under the administration of this Labor Government, is upholding its responsibilities to provide apprenticeship training; and those apprentices are then moving on and often finding employment in the private sector.

I am also pleased to indicate to Ms Ellis, who is interested in what practical things are being done about youth unemployment rather than grandstanding, as the Opposition seem to want to do, that we have also taken on three trainee hydrologists and we are offering a civil engineering scholarship for a female student. That is very important, because the science and engineering professions have tended to be very much male dominated and it can be difficult to provide incentives for women to enter those fields. ACTEW is fulfilling its responsibilities as a responsible part of this community under this Government by continuing to provide opportunities to young Canberrans.

### **Woden Valley Hospital - Psychiatric Beds**

**MRS CARNELL:** My question is addressed to the Minister for Health, Mr Berry, because we do not want him to feel left out. Can the Minister tell the Assembly whether it is true that six psychiatric beds - that is, nearly 20 per cent of the available beds in the psychiatric unit - are to be closed at Woden Valley Hospital at a time of year that is historically a period of particularly high need? If this is true, can the Minister tell us for how long the beds will be closed? Can he confirm that the reason for this closure is the unavailability of staff due to holidays and illness? Remember, you are supposed to know about this daily.

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**MR BERRY:** This is a good question. This is more of the old obsessive scare campaigns by the Liberals. Beat something up, make some accusations - "240 beds within the hospital system are going to close tomorrow. Is the hospital going to fall down tomorrow and what is the Minister going to do about it? If not, what has the Minister done to make it stand up?". This is just as ridiculous as all of the other scare campaigns that the Liberals try to run in this place. It is another one of the scare campaigns to try to beat up a bit of emotionalism, the same as the one you went on about this morning during the debate on private members business.

I will have a look at the issue and ask the people at the psych ward whether Mrs Carnell is fair dinkum about her approach to health or whether she is just fooling around again; and we will come back with an answer, if indeed one is required.

### ***Canberra Times - Police Investigation***

**MRS GRASSBY:** My question is to the Chief Minister. Did the Government initiate a raid on the *Canberra Times* over a leak of the health budget?

**MS FOLLETT:** I thank Mrs Grassby for the question, because it allows me to put some of the facts of this matter on the record. Of course, the facts are far less sensational than members opposite would wish them to be. I am sure that that is a source of great disappointment to them. Nevertheless, Madam Speaker, I advise members that it was in fact the Head of Administration, in consultation with the Secretary of the Department of Health, who asked the Australian Federal Police to investigate an alleged leak of information to the *Canberra Times*.

Madam Speaker, as I am sure members opposite know, the methods that the Australian Federal Police use in this investigation are a matter for them. We do not interfere in police operational matters; and we have not on this occasion, either. Nor are the police subject to government direction on operational matters. I think that the constant assertions to the contrary by members opposite are most unfortunate indeed. Madam Speaker, I would like to go - - -

**Mr Humphries:** Madam Speaker, I raise a point of order. No member of the Opposition has said anything of the kind. The Chief Minister is clearly misrepresenting the situation.

**MADAM SPEAKER:** Ms Follett is generalising; she is not making a specific accusation. I do not believe that there is any improper imputation.

**Mr Kaine:** On a point of order, Madam Speaker: The Chief Minister is not entitled to so generalise. She is either making an accusation that the Opposition - - -

**Mr Berry:** Which standing order?

**Mr Wood:** What is the point of order?

**Mr Lamont:** What is the point of order? Come on, what is the point of order, what number?

**MADAM SPEAKER:** Could I have some order.

**Mr Wood:** There is no point of order.

**Mr Lamont:** Pursuant to which standing order?

**Mr Kaine:** Twenty-six.

**Mr Lamont:** Twenty-six does not apply.

**MADAM SPEAKER:** Order!

**Mr Kaine:** The Chief Minister is not entitled to make such general assertions.

**MADAM SPEAKER:** Order!

**Mr Connolly:** I raise a point of order, Madam Speaker. Standing order 26 refers to custody of records and has nothing to do with what the Leader of the Opposition - - -

**Mr Kaine:** That is what we are talking about. They were up in the Chief Minister's office looking for them yesterday.

**MADAM SPEAKER:** I cannot rule on a point of order if it is not clear to me what that point of order is.

**Mr Berry:** If it is not a point of order.

**MADAM SPEAKER:** Right. When and if I understand the point of order I will rule on it. At the moment, all I understand is that it was claimed that some improper references were made to the Liberal Party, and I ruled that I felt that there were not any. If there is a further point of order I will listen to it. Only if it makes sense to me will I then rule on it.

**Mr Kaine:** You do not believe that they were improper?

**MADAM SPEAKER:** I would like a proper point of order, please - if there is one.

**MS FOLLETT:** Madam Speaker, by way of explanation I refer members - and they might like to look at the *Hansard* in due course - to Mr Kaine's first question, in which he clearly said that the Government had ordered the police into the Assembly, and to Mr Humphries's question, which made a similar sort of assertion - perhaps not in as many words, but that was clearly, I believe, the intent of their assertions. I repeat, Madam Speaker, that the Government does not direct the police in operational matters in this or, indeed, other investigations.

Members opposite should note that the ACT is served by an administration that is conscientious and professional and wishes to get to the bottom of this matter. They have sought the assistance in this investigation of the Australian Federal Police, who are equally conscientious and equally professional. I think it is time all members let them get on with their job.

### Whistle-blower Legislation

**MR DE DOMENICO:** My question is addressed to the Attorney-General, Mr Connolly. Do the Government, and the Attorney-General in particular, support whistle-blower legislation? Will he introduce whistle-blower legislation into the Assembly in order to protect conscientious public servants from the Stazi-like tactics of the Chief Minister and her deputy?

**Ms Follett:** On a point of order, Madam Speaker, I think that I am justified in asking that Mr De Domenico withdraw that totally unparliamentary reference.

**MADAM SPEAKER:** I believe that that is correct. Please, Mr De Domenico.

**Mr De Domenico:** Which one - "Stazi-like"?

**MADAM SPEAKER:** "Stazi-like", please.

**Mr De Domenico:** I withdraw that part. May I repeat my question?

**MADAM SPEAKER:** You can change your adjective if you so choose.

**MR DE DOMENICO:** Do the Attorney-General and the Government support whistle-blower legislation? Will he introduce whistle-blower legislation into the Assembly in order to protect conscientious public servants from the tactics of the Chief Minister and her deputy that we have seen in the last two days?

**MR CONNOLLY:** The Government's legislative program has been published, and if members opposite had been diligent and read it they would have noticed that there was nothing in there about whistle-blower legislation. They would also have noticed that there was nothing in the Labor Party's election manifesto in relation to whistle-blower legislation. They may deduce from that that it is not part of the Labor Party's platform or agenda to introduce whistle-blower legislation, and indeed they would be right - if they did that research. This was a subject dear to the heart of a Minister in the Alliance Government, now departed from this place, who was quite obsessive on the issue of whistle-blower legislation. But, as far as I know, it was never seriously considered by the Alliance Government either. No, we have no proposal for whistle-blower legislation. The law in this Territory, as does the law in most places, makes it a criminal offence for public servants to divulge sensitive or confidential information. The proper practice for public servants, if they feel that they can no longer in conscience hold secrets, of course is to resign. One is always free to leak, provided one takes the consequences.

Whistle-blower legislation, I should point out, is generally defended as allowing someone to reveal an illegality. No whistle-blower legislation, Madam Speaker, would protect an official who leaks a budget document. Whistle-blower legislation is claimed to be necessary to protect a public servant who reveals an illegality or a malpractice, not someone who leaks confidential budget documentation. Some work is being done in Queensland on this matter. The Electoral and Administrative Review Committee recently published a report on whistle-blower legislation which I am reading, amongst other things. But we have no plans at present to propose such legislation. But, even if we did, the leaking of budget information would still be a criminal offence.

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

## PAPERS

**MS FOLLETT** (Chief Minister and Treasurer): For the information of members, I present a letter from the Federal Minister for Administrative Services, Senator Nick Bolkus, advising of the proclamation of 1 September as National Wattle Day, and a copy of the proclamation.

### INSTITUTE OF TECHNICAL AND FURTHER EDUCATION Annual Report for 1991

**MR BERRY** (Deputy Chief Minister): For the information of members, I present the annual report for the ACT Institute of Technical and Further Education for the year ended 31 December 1991, together with financial statements and the Auditor-General's report.

Motion (by **Mr De Domenico**), by leave, proposed:

That the Assembly takes note of the paper.

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

### HARE-CLARK ELECTORAL LEGISLATION Discussion of Matter of Public Importance

**MADAM SPEAKER**: I have received letters from Mrs Carnell, Mr Cornwell, Mr De Domenico, Mr Humphries, Mr Kaine, Mr Stevenson and Mr Westende proposing that matters of public importance be submitted to the Assembly.

**Government members**: A shonky deal.

**MADAM SPEAKER**: In accordance with standing order 79, I have determined that the matter proposed by Mr Humphries be submitted to the Assembly, namely:

The Chief Minister's six month delay in starting work on a Hare-Clark Electoral Bill for the ACT.

**Mr Kaine**: I raise a point of order, Madam Speaker. Mr Connolly said that this was a shonky deal. I was suspended from this Assembly for saying that. I ask that you have him withdraw that statement.

**Mr Connolly**: Madam Speaker, unlike the Leader of the Opposition, I withdraw immediately and unconditionally.

**MADAM SPEAKER**: Thank you, Mr Connolly.

**Mr Lamont**: I raise a point of order, Madam Speaker. I understand that the Leader of the Opposition was about to ask me to withdraw the same imputation. I am only too glad to say that I did say that it was a shonky deal for the six of them to put in exactly the same MPI, if in fact that was what they accused us of.

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**Mr Humphries:** How do you know?

**Mr Lamont:** Because you have just admitted it. You said that it was the same MPI. It was a shonky deal.

**Mr Cornwell:** I raise a point of order, Madam Speaker. If the Leader of the Opposition is not going to ask Mr Lamont to withdraw, I most certainly ask him to withdraw the words "shonky deal".

**Mr Lamont:** As I did say "shonky deal" just a moment ago, I withdraw.

**MR HUMPHRIES (3.04):** Madam Speaker, we on this side of the house have been concerned for some time about the Government's pace of progress on the very important and pressing question of Hare-Clark in the ACT.

**Ms Follett:** You wanted us to go slow on marijuana.

**MR HUMPHRIES:** The Chief Minister interjects something to the effect that she is getting on with the job and things are happening. Of course, we heard that yesterday. We heard the Chief Minister say in wounded tones that her Government is certainly not dragging its feet on electoral reform; it is certainly getting right behind this important question at great speed and producing important results and getting on with the job.

Madam Speaker, I have been in this place long enough to treat those sorts of claims, when they are not substantiated in the Assembly, with enormous suspicion. Today is no exception. We have heard before the claim that action is well under way on this important question, but the evidence of that action has been painfully limited. We were reassured that a timetable would be adopted which would see the Hare-Clark system in place in the ACT well before the next election.

Indeed, remarkably, the Chief Minister said that as of the end of 1993 there would be a complete Hare-Clark system in place in the ACT. That is not much more than 12 months away. With the greatest respect to the Chief Minister, I believe that she is setting herself an absolutely mammoth task, given the lack of action so far on this question, if she is going to meet that deadline. But we will see. I will be the first to congratulate her on the last sitting day of next year if indeed she has achieved that objective. I have my doubts. We have seen and heard before rhetoric on the part of this Government about their fabulous pace of action, about how they are getting on with the job; but in this case the facts just do not back that up.

Madam Speaker, I ask members to cast their minds back to 23 June this year, shortly after the Liberal Party began to raise the question of just what the Government was doing about Hare-Clark in this place and in this Territory. On that occasion the Chief Minister, stung into action, organised a dorothy dix question from Mrs Grassby. Mrs Grassby asked:

Can the Chief Minister explain to the Assembly what steps the Government has taken to implement the new electoral system for the ACT?

Ms Follett got up, most concerned and pained, and said:

Mr Deputy Speaker, what the Government has done is to set aside some funds in order to engage an independent expert to advise us further on the fairest way of implementing the decision of the Canberra people.

She went on to say:

I also think, unlike Mr Humphries, that it is very important that that person -

meaning the independent expert -

be independent and be seen to be independent.

That was the net result of the Government's actions, according to the Chief Minister, as of 23 June - more than four months after the ACT election. With the greatest respect to the Chief Minister's power to motivate the large, perhaps cumbersome workings of the ACT administration, setting aside some funds in four months is not a particularly impressive record of fast-tracking. Certainly it is a hopeful sign but not a particularly dramatic one.

We were reassured by that. We particularly liked the idea about the independent expert. We assumed that an independent consultant or someone of that kind would come in and give the Government high quality, independent advice on what to do about getting Hare-Clark in place. I suppose they needed that because there was not much independence or empathy towards Hare-Clark within the Government's own ranks. Nearly two months elapsed until 20 August. The Opposition waited faithfully for some sign of action on the part of the Government, but in the whole time from 23 June to 20 August nothing transpired. Then on 20 August we spied in the *Gazette* - - -

**Ms Follett:** The Commonwealth *Gazette*.

**MR HUMPHRIES:** The Commonwealth *Gazette*. Thank you, Chief Minister. We saw an advertisement for a senior officer grade B position with duties including:

Provide policy advice, coordination and liaison in relation to the development of an electoral system for the ACT, and in particular: develop advice to senior management and to Government on all matters relevant to the development and administration of an ACT electoral system ...

The first thing that I have to say about that, Madam Speaker, is that we seem to have put to one side the concept of an independent expert. The advertisement is not for an expert or specialised person, a person who might be working in the electoral commission of another State - for example, Tasmania - or of the Commonwealth. It is not for an independent academic such as Malcolm Mackerras. Rather, the Government is advertising for a public servant - not independent and not necessarily expert. In fact, I think we would have to say that it is extremely doubtful that the ACT Government would have been able to secure the services of an expert on electoral systems from within its own ranks.

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Gone was the idea of an independent expert, presumably a consultant, which the Chief Minister espoused on 23 June this year. Obviously, on 23 June, in answer to Mrs Grassby's question, the Chief Minister was making policy on the run: "Yes, we will have an independent expert. Yes, that is the best idea. We will grab one of those. That will be the best way of doing it". No-one could be found in that category, so there has been a change of course. We decide that we are not going to have an independent expert but instead a government employee to prepare the usual submissions and get things done so that we can eventually have legislation for the ACT.

Not long after, on 3 September, another advertisement appeared in the *Commonwealth of Australia Gazette* for the same position. As far as I can tell, it is exactly the same position, a senior officer grade B. The difference on this occasion is that, rather than it being a new position, as was indicated on 20 August, now it is a designated position, position No. 12573. The Chief Minister was gracious enough yesterday to acknowledge that the Government had made a mistake, that there was some problem with its earlier advertisement and that a later advertisement had to be put in to correct that matter. I am not sure what the basis of the problem was. Perhaps there was no date in the first advertisement or perhaps the position number was not advertised or something of that kind - I am not sure. But, whatever the problem was, a further delay of two weeks or so was incurred in advertising for the services of somebody who will, in due course, start to draft our legislation for us.

These processes are extremely slow and cumbersome. I would have expected a delay of at least a month, and more likely two months, in the actual filling of this position. So from the beginning of September we are now looking at filling the position by the beginning of November. The person, unless a ready-made expert on Hare-Clark and the ACT electoral system, which is most unlikely, will have to get down to the job of learning the system in the ACT and the system in Tasmania, working out how electoral systems generally operate, studying the Commonwealth Electoral Act, et cetera. It would be most unlikely that that officer would be in much of a position to begin work on drafting instructions until 1993 next year.

I have been in government too. I know what an extraordinarily long time it takes to get sometimes very simple pieces of legislation in front of the Cabinet. It is a very long, laborious process. It is not just a question of how much priority the Government gives it. It is a question of what resources are available and what expertise is available within the public service, which has to produce that legislation. The food legislation we considered only last month is a very good example of that. It was 12 years in the making. I can assure members of the Assembly that the electoral Bill will be a considerably more complex piece of legislation than the Food Bill. There is a sad shaking of heads from those opposite. They do not think it is in the same category, but mark my words. You are going to have trouble getting this legislation into the Assembly within the timeframe that you are thinking of. You are going to have trouble; that is my prediction.

We were also told yesterday by our wounded Chief Minister, "Indeed, we have an officer working on this question. There is now a person dedicated to the job of researching and getting on with the job of preparing us for Hare-Clark". Presumably, at this stage this officer is looking principally at the electoral

commission that the ACT Government intends to introduce before the end of this year. The Chief Minister told us yesterday that before the end of this year there would be in place - that is, passed and in place - legislation to establish an ACT electoral commission. I can only assume, therefore, that this public servant starting work in the Chief Minister's area will be dedicated to that task.

But my understanding of the matter is that the officer who the Chief Minister proudly announced was getting on with the job of preparing all this work for the ACT Government in fact began work in the Chief Minister's area, under her aegis, on Monday of this week - two days ago and one day before she answered the dorothy dixer, again from Mrs Grassby, on what progress was being made by the ACT Government in this matter.

**Mr Connolly:** It was from Ms Szuty.

**MR HUMPHRIES:** I beg your pardon. It was from Ms Szuty. That really changes things! The dorothy dixer from Ms Szuty said, "What are you doing?". Ms Follett answered, "We have an officer working on this matter - - -"

**Ms Follett:** Madam Speaker, I raise a point of order. In defence of Ms Szuty, I submit that the term "dorothy dixer" implies that there was some collusion on this question between me and Ms Szuty. That is not the case. I think the term imputes quite improper motives and should be withdrawn.

**MR HUMPHRIES:** I withdraw. Ms Szuty asked, "What are you doing?". The answer came back, "We have an officer working on this matter". The officer, it turned out, had been in place for barely 24 hours - hardly an indication of great priority on this matter. It is quite reasonable to assume that that officer came on board as a result of the pressure put on the ACT Government last week by the raising of this issue - the matters that the Chief Minister herself said were beaten up by the Opposition. It did produce one result. It got action from the Government and it got an officer in place to attend to this matter.

Madam Speaker, there are two more things I want to raise before I sit down. One is the fact that it is not just the Opposition which is concerned about the progress the Government is making. I quote Dr Scott Bennett from the ANU speaking on the Matthew Abraham program just this week. He was asked: "Well, is time beginning to tick away if we want to get Hare-Clark comfortably and properly in place?". Dr Bennett said: "Well, when you think of all that would need to be done, in particular the arrangements for drawing up the electorate, then we'd have to, I would think, be moving sooner rather than later because that sort of process can take a long time". The Opposition is telling the Government that; the academic world is telling the Government that. Everybody but the Government's own members, it seems, is telling it that it needs to be getting into action on this matter.

The second question, Madam Speaker, is the disturbing question of just what the Government is going to do. I have heard the Chief Minister say several times in the house that her Government is in favour of implementing the result of the referendum. But there is a painful lack of willingness on the part of the Chief Minister to say what that means. Just how far does that go? I have here the referendum options paper distributed to all electors of the ACT just before the referendum. It set out what Hare-Clark was all about. It gave a point by point

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indication of what we were talking about when we said "Hare-Clark". On the ballot paper one of the options people had was "A proportional representation (Hare-Clark) system (as outlined in the Commonwealth's *Referendum Options Description Sheet*)".

That blue sheet in the referendum booklet makes clear reference to Robson rotation. I have not heard the Chief Minister talk about Robson rotation in any of the answers that she has given in this place, or anywhere else for that matter. She has not confirmed that the ACT Government will put in place the whole decision made by the ACT people, including Robson rotation. Perhaps I am misrepresenting her. Perhaps I am doing her a disservice. I hope that she will take advantage of her speech in this debate to indicate just whether the Government will be putting in place Robson rotation as outlined in the booklet which was circulated before the ACT referendum in February this year.

**MS FOLLETT** (Chief Minister and Treasurer) (3.19): Madam Speaker, at the beginning of my comments in relation to Mr Humphries's matter of public importance, I repeat that the Government is completely committed to introducing the Hare-Clark system in the ACT and to doing so in good time before the next ACT election, which is due in February of 1995. Yesterday, in answer to a question from Ms Szuty, I outlined the process and the timetable that we are working to.

I accept Mr Humphries's criticisms of the selection process for our independent senior officer grade B. I take that on the chin, Madam Speaker. He is right. Clerical errors were made. May I clarify what the error was. I believe that it related to the category of person who could apply for the job. In other words, this position is available to people who are not members of the Australian Public Service. At some stage in the advertising process that was not made clear, and it has been corrected. So, yes, Mr Humphries is right and I accept that. Madam Speaker, I outlined yesterday that we would be having a two-stage process, the first stage of which is to introduce the system to establish the ACT electoral commission. I indicated at that time that I expected that to be completed this year.

I turn to the precise nature of Mr Humphries's matter of public importance. It is fair to say that Mr Humphries is quite wrong when he says that there has been a six-month delay in starting work on Hare-Clark. That is simply not the case. In fact, my department has been working on this project since the outcome of the referendum was known, and that is for quite some time. Their work has not always been highly visible and it is not the sort of thing that Mr Humphries could go out and make a scandal over, as he is prone to do. But it has in fact been a matter of detailed consideration of a range of issues, particularly the legal framework of the task that is in hand. In order to assist Mr Humphries I shall briefly outline the framework in which the development of the ACT's electoral system must take place.

Madam Speaker, before amendments to the Australian Capital Territory (Self-Government) Act 1988 earlier this year, section 66 provided that members of this Assembly were to be elected in accordance with Part VIII of the Act and in accordance with the Australian Capital Territory (Electoral) Act, which is also, as I am sure Mr Humphries knows, a Commonwealth Act. The ACT (Electoral) Act not only sets out numerous substantive and machinery provisions to govern ACT elections but also includes hundreds of modifications of the Commonwealth Electoral Act which apply in the ACT.

The Commonwealth Government has amended the ACT (Electoral) Act not once but several times since 1988. Some of those amendments dealt with further modifications to the d'Hondt system for this year's election. Amongst other complex amendments, the Australian Capital Territory (Electoral) Amendment Act 1991 modified the modifications to the Commonwealth Electoral Act in its application in the ACT. It inserted new modifications and omitted others. So, as I am sure members would appreciate, in that context of so many amendments, the legal position that we are forced to work within is far from straightforward.

Furthermore, Madam Speaker, the amendments made to the ACT (Self-Government) Act this year do two important things. First, they allow the Assembly to pass its own electoral legislation, which is what we are going to do; and, secondly, they set defined parameters within which this is to be done. It is precisely this framework, with all its attendant complexities, which my department has been examining in conjunction with the Attorney-General's Department since the referendum result was announced.

There has also been consultation with the Commonwealth on the amendments made this year to give the ACT the parameters within which to develop our own legislation. Two examples of issues which have surfaced in the course of this consultation concern sections 48 and 67C of the self-government Act. Section 48 provides for the Commonwealth Minister to call an election if a Chief Minister is not elected within 30 days of a successful no-confidence motion and the Governor-General has not dissolved the Assembly. Madam Speaker, no such election can be called in a pre-election year, which is defined on the basis of an election being held every three years in February. This arrangement may not emerge as the Assembly's preferred option. In other words, the present wording of section 48 may constrain the ability of this Assembly to legislate in this year, and that is a matter that has to be dealt with.

To further illustrate that point, I point out that section 67C is one of a number of sections that set parameters around which the ACT electoral system must be developed. This section provides for the qualifications of electors. Madam Speaker, interestingly, it appears to provide a double test of a person's entitlement to vote. A person's name must be on the roll for Territory purposes, and that person must be eligible to vote for the House of Representatives. I believe that this Commonwealth provision needs to be reconsidered as it seems to restrict the Assembly's flexibility to legislate in relation to the franchise in the ACT.

Madam Speaker, my point in outlining these technical matters is simply to indicate that, before turning to the ACT system itself, the legal context - which is not free from doubt - must be clarified. To summarise: Mr Humphries, Madam Speaker, is quite wrong to suggest that the Government has not commenced work on the implementation of the Hare-Clark system. On the contrary, many of these complex issues have been examined and, as I informed the Assembly yesterday, the Government has a considered strategy for ensuring that the ACT's electoral system is developed in a coherent and managed way.

As I said yesterday, the target is to have the electoral boundaries in place and the electoral legislation passed by the Assembly before the end of 1993. That leaves well over 12 months before the election in February 1995. To commence this process, as I have said, I think it is appropriate to enact first the legislation

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establishing an ACT electoral commission. I have informed members that that will be done by the end of this year. That commission's first task will be to establish electoral boundaries. Madam Speaker, the substantive electoral legislation will be introduced into the Assembly next year. As I have said, this will ensure a period of over a year for Mr Humphries to come to grips with the legislation and the electoral system.

I take this opportunity to remind members that matters as complex as this simply are not achieved overnight. Mr Humphries made a reference to fast-tracking of the matter. I want to assure members that it is not being fast-tracked. It is a matter which requires detailed and very thoughtful consideration and some very painstaking work. I do not think it is a matter that lends itself to fast-tracking at all. Nor do I believe that it is a matter where we need to have a sense of panic. As I have constantly said, Madam Speaker, the next election is due in February of 1995. It is reasonable to leave over a year clear for the community to come to terms with the new legislation. That is certainly the timetable that I am working to.

I do not believe that the establishment of the ACT electoral system is an appropriate matter for political point scoring regarding either the project itself or the vote counting system that will be brought in. The exercise is about establishing detailed legislation which deals with numerous machinery and technical matters that will have to serve the ACT community long after Mr Humphries has left this Assembly. Madam Speaker, I believe that the timetable I have outlined and the progress that has been achieved to date will ensure that we get this legislation in good time and in good order. I trust that all members of the Assembly will be far more concerned with getting the legislation right than about scoring silly points on it.

**MR CORNWELL (3.28):** It is interesting that the Chief Minister, in responding to Mr Humphries on what I regard as a very important matter, did not take her full time. It almost suggests that the Chief Minister is not terribly keen to debate this matter today. I shall refer to what I believe is the real reason for that very shortly. The lack of action by this Government in this matter can be seen if we look at the history of it. The fact is that in the referendum they got well and truly done. The single-member electorate result was 34.7 per cent; Hare-Clark was 65.3 per cent. That was in spite of having the machine man and number cruncher Senator Bob McMullan looking after the referendum as their campaign manager. I believe that this simply indicated that the majority of people of this Territory believe that the Hare-Clark system is what they require and - - -

**Mr Connolly:** And will get.

**MR CORNWELL:** Thank you, Mr Connolly. I acknowledge the interjection that they will get the Hare-Clark system. Let me now ask you another question. Will they get the Hare-Clark system with the Robson rotation? Would you care to interject on that point?

**Mr Connolly:** The Chief Minister has said that the referendum result will be implemented.

**MR CORNWELL:** The referendum result will be implemented. We have the nub of the problem here. This explains the delay that the Chief Minister has been at great pains to try to defend. She talks in terms of the Federal legislation and the fact that her department has been working on aspects of the referendum proposal

since the result was known. She talks about the complexity of the technical matters. What she does not state, however, state is that it would have been quite possible to have done all those things and, in parallel, look at the matters that Mr Humphries mentioned. Surely it is not beyond the wit of the Chief Minister's Department to progress something as important as this new electoral proposal in parallel - by not only addressing the Federal technical matters but also setting up the machinery for drawing up the electoral boundaries and preparing legislation.

The reason that they cannot do this, and we all know it, is that it is not a matter of political point scoring that our Chief Minister is concerned about - at least not political point scoring from the Liberal Party. It is the problems that they face within the ALP itself. It comes down to the crunch - and I mean "crunch" in the full sense of the word - of Robson rotation. There are going to be some real problems of number crunching in the ALP because, as we all know, Robson rotation does not allow the factions to organise who is going to be at the top of the ticket. The Robson rotation allows everybody on the ticket an equal chance. This would not please the machine men and women of the ALP. That is the last thing they would want. The problem is that certain incompetents within the ALP who are at the moment elected to this Assembly may find it extremely difficult to be re-elected under Robson rotation.

**Mrs Carnell:** Do you mean people like Wayne?

**MR CORNWELL:** I would not like to speculate. It would not be Mrs Grassby; it would not be Mr Connolly; it would not be Mr Wood. Those three are present in the chamber. And it certainly would not be you, Madam Speaker. I leave it to members to judge for themselves to whom I may be referring. But the fact is that this is the problem that they face, and they cannot resolve it. It is not a question of political point scoring outside of the ALP. They are desperately trying to come to some solution. I suspect that this matter cannot be resolved internally within the party; it can be resolved only by delay so that eventually time will run out.

There are many complicated procedures. The drawing up of the electoral Bill, as has been pointed out, is not a simple matter. Something like 14 stages have been identified - drawing up drafting instructions, setting up a boundaries commission, two stages of community consultation and finalising the system. There are 14 stages involved in all. If they can delay this long enough, those 14 stages will not have been completed by the time the next election comes around and therefore we will have to fall back on something that may be a little more simple.

**Mr Humphries:** Like d'Hondt.

**MR CORNWELL:** That is right. It may have to be d'Hondt again.

**Mr Lamont:** It does not matter what it is. Most of you will not be back, so you should not be too worried about it. There will be a few more garbage bins being wheeled out.

**MR CORNWELL:** We might have to put a few of you people in them. Delay is the only answer for the ALP with this absolute dilemma. The Left and the Right factions are obviously going to be at each other's throats. What will happen to those who are unaligned - my good friends Mrs Grassby and Mr Wood - I would not like to speculate on. However, they are another factor - - -

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**Mr Kaine:** Bill is not speculating, either. He is asleep.

**Mrs Grassby:** I do not blame him. It is awfully boring. If I were not writing I do not know what I would do.

**MR CORNWELL:** No, it is not boring, Mrs Grassby. We know what the problem is with the ALP. We know that they have been unable to resolve the problem, and therefore they do not want Robson rotation. It takes away the power from the machine men and women of the party and gives it to the electorate. Believe me, there are plenty of people out in the electorate who would be extremely selective, if they voted for the ALP, about the people in the ALP they voted for. The beauty of the Robson rotation is that it not only allows people to vote for some members of the ALP but also allows them to vote for some members of the Liberal Party as well simultaneously. It also allows them not to vote for some members of the ALP. Therefore, people can cast a democratic vote for people in whom they believe, people who have contributed substantially, in their estimation, to the Territory, people who have demonstrated their commitment to the electorate and have not been simply appointed by the number crunchers in the party machines. This is the problem in the ALP causing the delay.

I want to give the Chief Minister and the ALP a very clear message on this. We are, as indeed the electorate is - thanks to Mr Matt Abraham the other day in the *Canberra Times* - aware of the problems that you face. We are not going to let you get away with not introducing this legislation. As Mr Humphries has already indicated, once again this Opposition is prepared to take up the cudgels, as we did with the Food Bill, the quarterly payments of land tax and, indeed, the methadone legislation. We have led the way and forced the Labor Government to do something. We have forced them to do something in each case, and we intend to do exactly the same thing in relation to the electoral Bill.

**Mr Berry:** You will not get off. You will pay.

**MR CORNWELL:** I can assure you, Mr Berry, that we will be only too pleased to introduce an electoral Bill. Thus you will have the choice of either supporting it or perhaps once again being embarrassed enough to introduce your own Bill to try to head off our initiatives.

**MS SZUTY (3.38):** Members will remember that I addressed the question of the implementation of a Hare-Clark electoral system for the ACT during the matter of public importance debate on 19 May this year, a little less than four months ago. At that time I talked about the issues involved in bringing a Hare-Clark electoral system into being - the determination of electoral boundaries, the provision for Robson rotation and countback, and the possible role of the Australian Electoral Commission.

Since May we have heard that Mr Humphries has drawn together a number of interested individuals with expertise and a commitment to the implementation of a Hare-Clark electoral system to work together in a committee and in a series of subcommittees to examine facets of the electoral system with the object of producing legislation for debate in this ACT Legislative Assembly. Mr Humphries is to be commended for his initiatives on this matter - although, given his reference to my question without notice to the Chief Minister on this issue yesterday, perhaps I should commend his efforts somewhat reluctantly.

Indeed, it was only yesterday that we learned in this chamber that the Government would be establishing an ACT electoral commission to undertake some of the preliminary work. But where and when was it determined that this step was warranted? Will the commission be permanent, or will it expire after its major task of drawing up the boundaries and collating electoral rolls has been completed? The rolls are currently being reviewed by the Australian Electoral Commission and should be able to be electronically transferred to an ACT electoral commission without too much need for further work. We are indeed entitled to ask: What will be the workload of the commission once its initial task is completed, and what will be the staffing level of such an office?

The Chief Minister has said that work is proceeding on the implementation of the Hare-Clark electoral system. However, I and many others who have had an active interest in the introduction of Hare-Clark want answers to many questions and a commitment that one of the key features of the system, Robson rotation, will be included. There is concern in the community that what the Government is working on is a way to avoid implementing Robson rotation and to leave party factions in charge of the voting agenda. The people of Canberra want and deserve a system which gives them the power over the end result. Robson rotation gives the potential for members to be elected on their merits, not on their party's factional endorsement. In concert with this, the Hare-Clark electoral system as it operates in Tasmania is also closely associated with a ban on using how-to-vote cards within a kilometre of a polling booth. Again, there is a perception that most of the Government's energies are going to go into finding ways to get out of implementing this ban, rather than looking at ways to introduce these aspects as part of the commitment given to implement the will of the people.

I am aware of the defence that all people actually voted for was the Hare-Clark electoral system, no more and no less. This goes against the will of the people in that the debate on Hare-Clark before the referendum concentrated on these aspects as some of the more beneficial of the Tasmanian implementation of the system. Community members attending the Belconnen Community Council's last meeting on 25 August asked me questions on the progress of the implementation of Hare-Clark. My response at that time, more than six months after the election on 15 February, was that Liberal MLA Mr Gary Humphries had formed a working group with the intention of producing legislation, and there had been no word from the ACT Government other than, "Trust us; it will be done in time for the next election".

The Chief Minister, during the matter of public importance debate on 19 May, said that she had committed a Labor government to implementing the choice of the people before the result was known. We may well ask then: Why are we still waiting to see a detailed timetable of what is to come? As members will be aware, the result of the referendum was known quite some time before the election result - and I should know; I have personal experience of that. If the commitment to implement Hare-Clark was so unequivocal, why are we only just now seeing the stirrings of an implementation strategy? While I am pleased that the Chief Minister has given us an outline of the Government's timetable for implementing Hare-Clark, the Government has much to live up to in terms of the expectations of the ACT community regarding the implementation of a Hare-Clark electoral system in time for the next ACT election.

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**MADAM SPEAKER:** I call Mr Connolly.

**Mr Stevenson:** I take a point of order, Madam Speaker. Under standing order 44 - - -

**MADAM SPEAKER:** Mr Stevenson, I am the Speaker. Mr Connolly has the floor.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (3.43): Thank you, Madam Speaker. The normal conventions applying, this gives the Government two responses to three attacks, which seems reasonably fair.

Madam Speaker, the Liberal Opposition really has very little to offer the Canberra electorate, and that is shown very clearly by this fairly wet matter of public importance proposed today. Their lack of anything to offer was shown most clearly by the fact that it is Ms Szuty who has been pursuing this matter. Ms Szuty asked the question yesterday; Ms Szuty has shown the interest in this matter and has been pursuing the Government with questions as to where we are going. As the Chief Minister indicated yesterday in response to Ms Szuty's question, not the Liberal Party's question, the Government has the matter in hand and is progressing the matter.

What the Liberals are clearly trying to do is to create some sort of fantasy of a conspiratorial government seeking to somehow evade the clear commitment given by the leader of the Labor Party before the election to implement the will of the people. I remind Independent members in particular that it was the Chief Minister who was first to give a commitment before the election to implement the will of the people, whatever the result. The Liberal Party followed some time thereafter.

**Mr Kaine:** I do not think that is quite true.

**MR CONNOLLY:** It is. Madam Speaker, the essential point to remember in this conspiracy fantasy is that it will be the members of this Assembly who pass the law. It will not be the executive government sitting down somewhere. It will not be the Labor Party's extraparliamentary forums that do this. It will be the Assembly. So the law that eventually establishes the electoral system will represent the will of the Assembly. As we know, the Labor Party, although it received by far the largest block of support from the community - about a third greater than the support for the Liberal Party - at the last election, has eight seats. Therefore the Labor Party cannot impose an electoral system on the people of Canberra.

This fantasy that Mr Cornwell was prattling on about, trying to get some media interest in a conspiracy theory, is just that - a fantasy. This Assembly will pass the law. This Assembly will implement the will of the people. Our commitment is to proceed on that. The matters are complex. The interrelationships between the legislative powers of this Assembly, the Commonwealth Electoral Act and the self-government Act were set out by the Chief Minister. That is being worked on. We have legal officers from the Attorney-General's Department working on that in the machinery of government section. The matter will be progressed. The timetable was made clear yesterday and expanded upon today by the Chief Minister, leaving me little to add. As is clear, there will be a 12-month period for consultation after that.

We have worked out the Liberal Party's agenda of criticism of the Government. We can predict in advance the way they will be going on particular issues. It all goes back presumably to some dancing lessons that some of them had some time ago, when they learnt the quickstep, when they were recited to by the instructor, "Slow slow, quick quick, slow". That seems to be the pattern of criticism of our legislation. It does not matter what the issue is. They say, "You are moving too slowly on this one. This is terrible. The Labor Government is doing all sorts of terrible things because it is moving too slowly".

**Ms Ellis:** That pattern is actually a slow foxtrot, not a quickstep.

**MR CONNOLLY:** Well, whatever. I was never a great dancer, I must confess.

**Ms Ellis:** I was. Slow slow, quick quick, slow is a slow foxtrot.

**MR CONNOLLY:** It is a slow foxtrot, I am advised. Then on the next issue it is said, "The Government is moving too fast. It should refer this to a committee. It should delay debate". When they have nothing to say on Labor's reform agenda - which, as we have pointed out before, has seen far more substantial legislation brought before this Assembly in far faster time than when the Alliance had control of this place - - -

**Mr Humphries:** That is all our legislation you are bringing forward; that is why.

**MR CONNOLLY:** There we go. That is their second fall back. They say that we are moving too quickly and then on other issues they say that we are moving too slowly. It is not a substantive criticism at all, Madam Speaker. The Government's commitment is clear. It was set out very clearly in the Chief Minister's remarks and needs no expansion. The Government will implement the will of the people as expressed in the referendum, the legislation will be brought before this Assembly within the timetable set out by the Chief Minister and the Assembly will decide what the electoral system will be for the people of Canberra.

If you think you are going to get some bites out there in the community with this mad conspiracy theory that we are somehow proposing to thwart the will of the people, you are just pushing it uphill. Our position could not be clearer. We will implement the referendum result, and we have people working on that matter. The timetable is clear. The legislation will be brought before the Assembly and it will be the Assembly's decision. I was brief, to give Mr Stevenson an opportunity to speak.

**MR STEVENSON (3.48):** Now, what was I going to say? The Chief Minister said earlier today that the people clearly showed what system they wanted and that it will be implemented. I think it worthy of note that the suggestion that that was what the people actually wanted is absolutely unreasonable. The two referendum questions were the Hare-Clark system and 17 single-member electorates. However, Hare-Clark in this case meant three electorates. So the real choice was not between Hare-Clark and 17 electorates, but between three electorates and 17 electorates. Suggesting that, when the people were given a choice of only three or 17, they picked three - they would have picked 10 over 17, five over 10, three over 10 and so on - - -

**Mr Connolly:** Or none over three.

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**MR STEVENSON:** And one over three. I must admit that I had not thought of that. Of course, none over one. However, I heard Mr Connolly and Mr Berry mention - - -

**Mr Lamont:** Why don't you help and make it 16 out of 17, Dennis?

**Mr Connolly:** There is the door.

**MR STEVENSON:** I will be happy to hold it open while we all walk out and then turn off the lights. Mr Connolly and Mr Berry mentioned that if we had a d'Hondt system I would be here forever. I thought it worthwhile commenting on that. It is fairly obvious that members of the Labor Party would rather I not be here. That was well demonstrated on the night of the election and immediately after the election. I think we all saw a very unhappy Terry Connolly interviewed while sitting down, and that surprised me. Why was he sitting down at the time? It may be that what he said - - -

**Mr De Domenico:** Probably because I was interviewing him.

**MR STEVENSON:** That is a good one. I have to acknowledge that. Mr De Domenico said that perhaps it was because he was interviewing Mr Connolly. Mr Connolly had a rather glum look on his face. I remind him of this and he acknowledges it. He said that it was very disappointing that obviously Mr Stevenson was going to be re-elected. I wondered what it was that he was worried about.

One thing was obvious from various statements made, not only by Labor Party members. After all, Ros Kelly got on national television and said that prior to Canberrans re-electing Dennis Stevenson she had thought they were intelligent. Now, is that a political statement? I think it was fairly obvious that if she had thought about that statement she never would have made it. It was just a sign of sheer frustration; a total inability not to say anything about it but, "Heavens, he has been elected again". It is interesting that people would be so concerned. That was the level of frustration that obviously there was. The Chief Minister said that Mr Stevenson would be as irrelevant in the next parliament as he was in the last. Whatever the truth of the matter is, that certainly is not it. That was proved by the various remarks, including that of Mr Connolly on the night. Logic would have it.

Once again, let us look at what people in Canberra want as far as an electoral system goes - if they are going to have any electoral system. First of all, about 50 per cent of people in Canberra, according to a survey, want a proportionally representative system where people are elected according to the proportion of people who vote for them; in other words, a system similar to the d'Hondt system. There can certainly be some improvements on d'Hondt, but it was not as bad as some people made out.

**Mr Connolly:** You would say that.

**MR STEVENSON:** It has always been the case. I have never changed. I have never said that. There was a huge reaction against it, but people were not arguing from a logical point of view. The majority of people in Canberra, on a survey, wanted a true proportionally representative system. The so-called Hare-Clark system that Ms Follett said that she was going to introduce is not a proportionally representative system. A system that does not allow

one-seventeenth of the members to be elected cannot be called proportionally representative. It does not make any sense. It is a form of Hare-Clark, but we should understand that you can introduce a Hare-Clark system under different numbers of electorates. It does not have to be three. The question and the debate, at all times, were misleading.

As for trying to get the opposing view across, or another viewpoint about what most people want, why not allow the people a real choice? Allow them to say whether they want a proportionally representative system with 17 members, under whatever system you use to elect them, Hare-Clark or otherwise; whether they want three electorates; or whether they want 17 single-member electorates. That would have been democratic. We did not have that. Just to carry on with the statistics, 50 per cent of people prefer proportional representation, 25 per cent prefer three electorates and another 25 per cent prefer 17 electorates.

I would not want to say that any government would rig election questions; but, if you are confronted with a situation where half the people want a particular question and the other half are divided between two questions, the best way to handle that, if you do not want the 50 per cent question, is to give them a choice between the other two. Then you can say, "Well, the people have spoken; they want three electorates over 17 electorates". That is not really okay and it never was. I thought it relevant that I once again raise that point. That the majority of people want three electorates over 17 obviously is the case, but the suggestion that they want three over fewer is not true. Various comments have been made by members of the Labor Party about whether this has something to do with self-interest. No, it has not. I do not operate from that point of view.

If you do not understand the surveys, and I think you do, by all means do some yourselves. There are different ways of using surveys. You can survey people to find out how best to promote to them a particular line, like selling a product. What will get them to buy this product? Do not ask what product they need and want and then supply that one. As for those people who comment on surveys, it is a wonderful situation in Canberra in that anybody can go out there and ask survey questions. We hear comments about the surveys that we have done, but we do not find someone coming up with different results from their own surveys. When we start seeing that done we might think that some people who comment are doing so on a reasonable basis.

**MR KAINE** (Leader of the Opposition) (3.57): I am quite happy to defer to Mr Lamont.

**MADAM SPEAKER:** I was waiting. Do you want to speak, Mr Lamont?

**Mr Lamont:** I will split with you.

**MR KAINE:** Right. I will leave you 2 minutes.

**Mr Lamont:** You go first, then I can refute your arguments. That is fine.

**MR KAINE:** You will not be able to, so just stand slack.

Madam Speaker, I have found this debate very interesting. I have discovered that the Government has absolutely no case that they can argue. The Chief Minister stood and waffled on. Let me refer to some of the things that she said. She said,

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"We have been discussing with the Commonwealth and we have been talking about section 48 and section 67C". Neither of them has anything to do with the introduction of an electoral system. There is only one part of the self-government Act that needs to be amended to allow the introduction of the Hare-Clark system, and it is neither section 48 nor section 67C. In other words, the Government is looking at amendments to the self-government Act that have nothing to do with the introduction of the Hare-Clark system. I guess that speaks for itself. Other rather minor elements and minor aspects of the self-government Act have been consuming their time entirely and they really have not done anything about introducing an electoral system.

I presume that Mr Lamont will jump to his feet in a few minutes, if he has any time left, and he will say, "Ah, but we have told you what our program is". The Government has not told us what its program is. Typically, in this, as in everything that the Government does, it does not lay its cards on the table and tell us or the electorate what it is doing. By a process similar to extracting teeth we have discovered that the Chief Minister intends to get the electoral boundaries fixed by the end of 1993. That is - - -

**Mr Connolly:** Ms Szuty found that out. The Liberals didn't. They did not ask the question.

**MR KAINE:** It does not matter how we found out; it was extracted from the Chief Minister. She has not volunteered any information.

**Mr Connolly:** All you had to do was ask the question. You had not asked it for weeks. It is the Independents.

**MR KAINE:** I can understand why Ms Szuty is so concerned. Of all of the members in the Assembly who might be concerned about whether they are going to have to go to an election with a Hare-Clark system or some other system in 2 years' time, probably Ms Szuty is the one who would be most concerned because her chances are diminished under this system. Under the present system all she had to do was to get a percentage of the total voting population spread right across Canberra. Under the Hare-Clark system, if it is three electorates - Mr Stevenson talked about the three electorates - she has to get a much higher percentage in a limited geographic area. So of course it is of concern to Ms Szuty as to whether we are going to have the Hare-Clark system and whether we are going to have three electorates or some other system.

We have not heard from the Chief Minister yet that there are going to be three electorates. Mr Stevenson is dead right; there can be anything between one and infinity. The Chief Minister has not told us yet what she is going to do. But she does tell us that there will be electoral boundaries 18 months from now. There will be some determination of electoral boundaries and there will be an ACT electoral commission by the end of 1992. Well, that is still a long way off. That is all she has told us.

What about the rest of the program? I still do not know the Government's program in terms of introducing the Hare-Clark system. I certainly do not know whether we are going to get Robson rotation or not. We get fobbed off by Mr Connolly with his smart remarks, such as, "We are going to introduce what

the electorate said they wanted". I know, and clearly Mr Cornwell knows - he obviously has heard the same things that I have heard - that the Labor Party caucus is twisting and turning to find a way of getting around the Robson rotation system.

**Mr Lamont:** Why?

**MR Kaine:** You might answer the question. Why are you? The Labor Party is twisting and turning, and turning the problem over, to figure out how they can get around this Robson rotation thing. I am getting the feedback that they are doing that. Mr Cornwell obviously is and I am sure Ms Szuty is. So do not tell me that there is no fire where there is smoke. Of course the Labor Party has a problem. That is one of the reasons why - I think it was Mr Cornwell or Mr Humphries who said this - we are getting no progress. The Labor Party cannot get itself off the hook that it is on. It has said that it will adopt the system selected by the electorate and it cannot get off that hook.

The Chief Minister said, "We want to get the legislation right". They have not done that with much other legislation. Look at the land tax. They did not get it right the first time. They are coming back with it and they have not got it right the second time, either. I spent a lot of time last night going through that, and all it does is tighten it up and make it more draconian. They talk about social justice. More people are going to be socially deprived under this revision of their Act than there were under the original Act.

It is all right talking about getting the legislation right; but there comes a time, Madam Speaker, when you have to get the legislation, and that is what people are looking for. Mr Connolly said, "The Assembly is going to decide". Well, the Assembly is not going to decide until Mr Connolly and his government mates put something on the table for us to look at. How can we decide until we have a proposal? You are the Government; you made a commitment. Put your legislation on the table so that we can see it. Then we might be able to decide.

**Mr Lamont:** I thought we agreed to split the time that was remaining.

**Mr Kaine:** Are you running out of time?

**MADAM SPEAKER:** You have run out of time, absolutely. That is the end of the discussion.

**Mr Kaine:** Have we run out of time?

**MADAM SPEAKER:** Yes, Mr Kaine.

**Mr Kaine:** I do apologise. I thought I still had lots of time, Mr Lamont. I had a lot more to say, too.

**MADAM SPEAKER:** I am sorry; the timer did give you 10 minutes.

**Mr Lamont:** I presume that you will give up your speaking right on another occasion?

**Mr Kaine:** Yes, I will.

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## **ASSEMBLY PRECINCTS - POLICE INVESTIGATION**

**MADAM SPEAKER:** Because Mr Cornwell did me the courtesy of giving me the copy of his question, I am in a position now to give him that answer. Thank you, Mr Cornwell.

**Mr Cornwell:** Thank you.

**MADAM SPEAKER:** The question was put, "When did the Speaker first become aware of the presence of police in the Assembly yesterday?". I became aware of it around about question time. The next question was, "When did members first know about the police visit?". I do not know. Next, "Did Mr Berry or any other member inform the Speaker that police would be visiting the Assembly today?". The answer is no. Last, "Has Mr Berry or anyone breached privilege by not informing you?". The matter of privilege has to be resolved not by me but by the terms of standing order 71. I refer people to standing order 71 and the procedures outlined there.

**Mr Cornwell:** Thank you, Madam Speaker.

## **PUBLIC ACCOUNTS - STANDING COMMITTEE Inquiry into Auditor-General's Report No. 2 of 1992**

**MR KAINE** (Leader of the Opposition): Madam Speaker, I seek leave to make a statement in connection with Auditor-General's report No. 2 of 1992.

Leave granted.

**MR KAINE:** Thank you, members. Madam Speaker, under the terms of the resolution establishing the Public Accounts Committee, that committee is required to examine all reports of the Auditor-General laid before the Assembly. On 23 June 1992 Mr Deputy Speaker presented to the Assembly the Auditor-General's report No. 2 of 1992 dealing with financial audits with years ending 30 June. The committee has agreed that I, as the presiding member, should make a statement on the committee's examination of this report, rather than present a formal report to the Assembly.

The committee wrote to Ministers on 24 June 1992 seeking submissions on the matters raised in the audit report. On 10 August 1992 the Acting Under Treasurer provided the committee with a response which coordinated comments prepared by each of the agencies mentioned in that report. The committee has examined both the Auditor-General's report and the submission from the ACT Treasury, particularly in relation to the timeliness of financial reporting. The committee also met with the Auditor-General to discuss his report.

The committee notes that concerns raised by the Auditor-General appear to have been acknowledged and addressed by the ACT Government agencies mentioned in the report. The committee has decided that there is no need to hold public hearings or inquire further in relation to matters raised in this report at this time. The committee will monitor the annual reports of agencies over the next three months, as some improvements in relation to timeliness of financial statements made in response to this audit should become visible.

**SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION -  
STANDING COMMITTEE  
Reports and Statement**

**MRS GRASSBY:** I present reports Nos 11 and 12 of 1992 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation, and I seek leave to make a brief statement on the reports.

Leave granted.

**MRS GRASSBY:** Report No. 11, which I have just presented, was circulated to members on 26 August 1992 pursuant to the committee's resolution of appointment. Report No. 12 contains the committee's comments on two Bills and eight pieces of subordinate legislation. I commend the reports to the Assembly.

**CROWN PROCEEDINGS BILL 1992**

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.07): Madam Speaker, I present the Crown Proceedings Bill 1992.

Title read by Acting Clerk.

**MR CONNOLLY:** I move:

That this Bill be agreed to in principle.

Madam Speaker, this Bill is based on a model Bill developed by the Solicitors-General of the States and Territories and agreed to by the Standing Committee of Attorneys-General. Its purpose is to produce, as far as possible, uniform, comprehensive and reasonable legislation throughout the States and Territories on the topic of suing the Crown.

Madam Speaker, under the common law and under statute law there is no automatic right to sue the Crown or the government. Historically the courts were the King's courts. Therefore, to sue the Crown would be for the King to sit in judgment of himself. Later the British courts developed a maxim that the King could do no wrong. Over the centuries the immunities and privileges of the Crown have been narrowed in their scope by legislation. Today in Australia every State and Territory has legislation that allows citizens to sue the Crown of that particular State or Territory. In the ACT the relevant legislation is the Crown Suits Act of 1989, although in the States this only ranges back to law reform in the 1930s and 1940s. However, because Australia is a federation, the Crown takes many different forms. There is a Crown in right of the ACT, a Crown in right of New South Wales, and indeed a Crown in right of all other States and the Northern Territory, and of course the Commonwealth.

This raises a difficult constitutional issue. What happens when you want to sue the Crown of a State for something it may have done in the ACT? For instance, suppose that the Western Australian Government has a tourist bureau which is a Crown agency. If it sets up operations in the ACT, one Crown is operating

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within the jurisdiction of another Crown. In the ACT there is legislation that allows someone to sue the ACT Crown within the ACT. Similarly, there is Western Australian legislation that allows a person to sue the Western Australian Crown in Western Australia. However, there is no legislation that allows someone from the ACT to sue the Western Australian Crown in the ACT. This poses a problem for which constitutional lawyers can give no certain ready answers. What is more, increasingly we are seeing Crown agencies such as banks, insurance companies and travel bureaus operating outside their home jurisdiction. It has therefore become important that the question of suing the Crown, in any of its capacities and in any jurisdiction, be clarified.

The Solicitors-General of Australia have developed a model Bill that I believe provides a solution to this question. It was their intention that the model Bill would replace all existing laws on the topic of suing the Crown throughout the States and Territories. The Crown Proceedings Bill now before this Assembly is based on that model Bill. This Bill represents another fine example of the commitment this Government has given to working with other governments where this is in the national interest to achieve uniform laws. In many respects the Crown Proceedings Bill is similar to the Crown Suits Act 1989 which it will replace. There are a number of clauses in the Crown Proceedings Bill that are essentially the same as the Crown Suits Act of 1989. However, in one very important respect it is different. The Bill will enable people to bring legal proceedings in the ACT not only against the ACT Crown but also against the Crown in right of other States and the Northern Territory.

The Bill provides that the Crown is to be in the same position as an ordinary person, as nearly as possible, and it sets out the mechanism for enforcing judgments against the Crown in right of any State or the Northern Territory. In this it is a step forward for easier access to remedies against governments and greater equity in bringing proceedings against governments. An important change in the Bill is that it will recognise the right of the Attorneys-General of other States and the Northern Territory to intervene on behalf of their governments in certain legal proceedings in the ACT. Without this Bill it would not be clear whether other Attorneys-General would have this right.

The model Bill contained a choice of two options for serving subpoenas on Ministers. Presently there is no set procedure in the ACT. The option chosen by the Government allows subpoenas to be served on the Chief Solicitor, who will then serve the relevant Minister. The alternative position would have required an applicant to seek leave of the court before obtaining a subpoena against the Crown. This would have placed the Crown in a favourable position compared to an ordinary citizen, and is therefore not pursued. As I have previously stated in this Assembly, the Government is committed to placing the Crown, which, of course, represents the Government, in the same position as an ordinary citizen to the extent that this is possible. There are also a number of technical changes in the Bill which are aimed at bringing the ACT into line with other jurisdictions. For example, clauses 6 and 9 of the Bill seek to ensure that existing rules regarding Crown immunities are not affected. The processes for enforcing judgments against the Crown are set out in clause 13. This Bill represents a welcome development in constitutional law, and I commend it to the Assembly. I now present the explanatory memorandum for this Bill.

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

## FAIR TRADING BILL 1992

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.12): Madam Speaker, I present the Fair Trading Bill 1992.

Title read by Acting Clerk.

**MR CONNOLLY:** I move:

That this Bill be agreed to in principle.

On 19 September last year I tabled an exposure draft of this Bill. The exposure draft was circulated for public comment. During the consultation period, industry and consumer groups made a number of written and oral submissions. The matters raised in these submissions have been considered and, where appropriate, incorporated in the Bill now before the Assembly.

The Fair Trading Bill 1992 completes the first stage of the Labor Government's strategy for developing up-to-date fair trading legislation to promote and enhance fair trading in the Territory. Work has commenced already on the second stage. Over the next two years the Government will be reviewing the Territory's patchwork of consumer protection laws in order to update them and, where appropriate, incorporate them in an omnibus Fair Trading Act. Territory consumers and traders will then have the best and most complete fair trading protection available. The passage of this Fair Trading Bill will also complete the first stage of the process by which the consumer protection provisions of the Commonwealth Trade Practices Act are mirrored in State and Territory fair trading laws throughout Australia.

Many of the obligations and benefits contained in this Bill are not new to Territory traders and consumers. Since it commenced in 1974, as an initiative of Attorney-General Lionel Murphy, the Commonwealth Trade Practices Act has imposed fair trading obligations on individuals in business as well as corporate traders in the Territory. In fact, even after this legislation commences, the Commonwealth Act will continue to operate in the Territory. However, I expect that, as a mechanism for consumer protection, it will be eclipsed by the enactment of our own fair trading law. This may come as a surprise to some. I have often been asked why it is necessary for the Territory to pass its own fair trading legislation. Consequently, I am glad to have this opportunity to explain the benefits of this legislation to the citizens of the Territory.

With self-government it is appropriate and important for the Territory to regulate its own marketplace. The Commonwealth Trade Practices Act focuses on the national perspective. Its consumer protection provisions are just one part of a greater legislative scheme aimed at maintaining competition throughout Australia. Although our Fair Trading Bill contains the same basic consumer protection provisions, it places them in the context of the ACT political and economic environment. Consequently, this law and any regulations made under it will reflect this Assembly's views about the fair trading rights and responsibilities of Territory consumers and traders. The ability to respond to the changing needs of our community is important in economic times such as these.

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Territory consumers and businesses need the assistance of innovative and effective strategies which ensure a free, fair and competitive marketplace. For this reason, I will ask the Commonwealth to roll back the operation of the Trade Practices Act in the Territory so that its coverage is the same as it is in the other States.

This Bill mirrors the unfair practices provisions of the Commonwealth Trade Practices Act. It sets out minimum standards that traders must observe when negotiating bargains. These standards are based on our community's expectations of fairness and equity. The standards also acknowledge the stresses and strains of business in the modern world. Unfair traders are often tempted to cut corners or engage in sharp practices to the detriment of both consumers and their fair trading competitors. Most of the provisions in this Bill follow the Commonwealth provisions word for word. This is necessary because, as I have explained, the law will operate concurrently with its Commonwealth, State and Northern Territory equivalents. Where the provisions differ from their Commonwealth equivalents, it is because the Bill has picked up relevant modifications that have been included in the more recent New South Wales and Northern Territory fair trading legislation.

The Bill is divided into four main parts. Part I of the Bill establishes the scope of the legislation. Most of the obligations contained in this Bill are imposed on persons in trade and commerce. "Persons" has a wide meaning because of the operation of the Interpretation Act. Consequently, the Bill applies to individuals in business as well as corporate traders. The Crown, too, will be bound by this legislation. The Government believes that whenever it engages in commercial activities it must set the standard and behave as a model trader. Traders must be able to compete with government enterprises on an equal footing. Consumers must enjoy the same standard of pre-sale protection whether they deal with public or private enterprise. For the purposes of this law, trade and commerce includes any business or professional activity. This means that professional advisers, such as lawyers and accountants, must comply with the Act. So, too, must the sole trader who runs a business from his or her home.

Just as the obligations contained in this law are imposed on the whole of the business community, the rights conferred by this law are also conferred on the whole of the consuming community. By this I mean that not only individual consumers such as you and I but also businesses entering into consumer-type transactions have rights under this law. This wide application of the law acknowledges that there is a public interest in maintaining a basic standard of honesty and fair dealing in the negotiation of bargains. Therefore, in most cases, traders can bring actions against their competitors to stop them from engaging in unfair trading. The view taken by the authors of the Commonwealth Trade Practices Act, to which this Government subscribes, is that such actions brought by rival traders will indirectly benefit individual consumers by keeping marketing fair and honest.

The definition of the term "consumer" is very broad. Individuals or traders that acquire goods or services from a supplier are consumers unless they acquire, or intend to acquire, the goods or services in the course of a business for the purpose of reselling them or using them as a raw material in a manufacturing or repair process. This definition is modelled on its counterparts in the New South Wales and Northern Territory fair trading legislation and differs slightly from the one used in section 4 of the Commonwealth Trade Practices Act.

The modified definition has been used because it is simpler and easier to understand but does not impose any obligations on traders beyond those already in place under the Commonwealth Act. This means that, as is the case under the Commonwealth Act, anyone who buys consumer-type goods or services must not be misled about the purchase. If traders buy consumer-type goods for use in their businesses and they are misled and suffer loss because of it, they have the same rights as if they had bought the goods to use at home. For example, a trader who is misled about the carrying capacity of a passenger vehicle that he or she purchased for making business deliveries could bring an action for her or his lost earnings under clause 46.

The simplified definition of "consumer" is also used in Part III, which provides for the development of codes of practice for fair dealing between consumers and traders. As well as prescribing codes for traditional consumer-type transactions such as the purchase of specific goods or services, the Government will also be able to develop codes to cover a wider range of transactions. For example, real estate agents often manage residential properties for small investors as well as for people who need to rent their family homes on a one-off basis. It is appropriate that the Minister have the power to develop codes that are broad enough to cover both of these kinds of transactions. Similarly, the relationship between commercial and retail tenants and their landlords could be regulated by a code of practice.

Passing now to Part II of the Bill, I will outline the main provisions of this part. For the sake of completeness I will also indicate how the unfair practices provisions in this part relate to the enforcement provisions in Part IV. Clause 12 prohibits misleading or deceptive conduct generally. To recover any loss, or to get a court order for damages or for an injunction, it is sufficient for a consumer to show that he or she was misled by the trader. It is not necessary for the consumer to show that the trader tricked or deceived them, or that the trader intended to deceive them. However, because clause 12 is so broad, traders cannot be prosecuted for a breach of this provision. This allows traders a little leeway for new marketing promotion strategies, while maintaining a civil action. Nevertheless, if an individual consumer suffers a loss as a result of being misled or deceived, he or she will have access to a range of private law remedies. These include an action for damages under clause 46, or a compensatory order under clause 50.

Under clause 50 the court has the discretion to make any order which it considers will compensate for or prevent or reduce the likelihood of loss or damage to the applicant. The clause itself contains several examples of the kinds of orders the court can make. In addition, anyone can apply to the court for an injunction to restrain a breach or an attempted breach of clause 12. Again, the court has very wide powers. It can grant interim injunctions, or injunctions which direct traders to act in a particular way or refrain from acting in a particular way. With such a useful variety of remedies, it is not difficult to see why the equivalent Commonwealth provision has been called a plaintiff's new Exocet.

If clause 12 is the plaintiff's new Exocet, then clause 13 is the plaintiff's new smart bomb. Clause 13 prohibits unconscionable conduct in consumer-type transactions, where traders have the opportunity to take unfair advantage of the disparity in bargaining power between themselves and consumers. As with clause 12, traders cannot be prosecuted for a breach of this provision. Nor can

consumers bring a damages action under clause 46. However, they can seek an injunction under clause 44 or a compensatory or rectification order under clause 50. For example, harsh contracts can be rewritten, refunds can be ordered, or orders for compensatory damages can be made. In the first instance, the conduct complained of must relate to goods or services that are of a kind ordinarily acquired for personal, household or domestic use or consumption. To obtain a court order for relief from an unfair bargain, the purchaser must be able to show that she or he was unable to protect her or his own interests when making that bargain. Most of the larger traders will not be able to demonstrate any vulnerability to an unfair bargain. However, smaller traders and individual consumers often have limited bargaining power and are more likely to be disadvantaged, and will benefit from this provision.

Clauses 14 to 29 specifically prohibit particular types of misleading conduct. These include well-known unfair trading practices such as bait advertising, pyramid and referral selling, and various similar kinds of misleading conduct. Traders can be prosecuted for a breach of one of these clauses, but may rely on a defence of due diligence provided they can show that they have taken reasonable steps to avoid the breach. In addition, under clause 50, when a court is hearing prosecution proceedings, it can make a range of remedial orders, either alone or in conjunction with a monetary penalty. For example, the court can make an order to compensate a person for any loss or damage he or she may have suffered because of the breach.

Of course, it is the Government's sincere hope that prosecution will be a big stick that will have to be used upon only the most recalcitrant or refractory traders. However, because consumers bargain in the shadow of the law, the possibility of prosecution is sometimes their biggest and most effective weapon. Therefore, whenever a prosecution is necessary as a deterrent or as a punishment, it will be used. Wherever possible, it is my view that a compensatory order, which benefits the consumer directly, creates a better culture for compliance than a prosecution which results in a fine. Either way, the unfair trader pays the price. The maximum fines for a breach of this legislation are high, but they are the same as for those in the Trade Practices Act and fair trading legislation elsewhere. Corporations can be fined up to \$100,000 and individual traders can be fined up to \$20,000. In addition to being liable to be prosecuted for a breach of these provisions, traders may also be sued by consumers. Clause 46 provides that anyone who suffers loss or damage as a result of a breach of the unfair practices provisions can bring an action in the Magistrates Court to recover that loss. If the claim is less than \$5,000, consumers can use the less formal procedures available in the Small Claims Court, which means that access to remedies is simple and accessible to all consumers.

Finally, I come to what I consider to be the most important part of the Bill, Part III. As I have indicated, this part permits codes of practice for fair dealing to be developed for particular types of trading situations. The development and prescription of codes of practice for fair dealing is an important tool for encouraging fair trading. Although the unfair practices provisions of the Bill provide the foundation for a framework within which the rights and responsibilities of the parties to the codes must be developed, codes of practice serve a special purpose which cannot be performed by the general legislative provisions of the kind I have just outlined.

Codes can be used to particularise and clarify rights and obligations in specific kinds of transactions. They allow traders to know with some certainty what their fellow traders and the rest of the community think is fair in that particular marketplace. Because they are industry-specific, codes can more effectively stamp out unfair trading practices. For example, if a code were developed for health and fitness club memberships, it might require all traders to provide certain minimum standards of service. It might also prohibit certain kinds of unfair and misleading recruitment practices, such as lifetime memberships. Exactly what needs to be contained in such a code is the first challenge for the developers of a code. I look forward with interest to our first ACT code of practice which will meet the specific needs of the Territory's consumers and traders. As well as taking account of any conditions or characteristics peculiar to the local marketplace, codes of practice can be developed, implemented and modified reasonably quickly in response to new products or services, or marketing techniques.

I intend to adopt a number of guiding principles for the consultation process by which codes of practice will be developed. These will ensure that each code maximises the opportunity for industry and consumers to participate in its development and administration; provides adequate mechanisms for monitoring and reviewing its operation; contains appropriate complaint and dispute resolution mechanisms; is accompanied by adequate consumer and trader education; and, finally, does not contain any provisions which unnecessarily inhibit competition in the industry. I wish to stress that codes of practice are not a backdoor way of imposing additional legal obligations on traders. The procedures for making them ensure that they are subject to the scrutiny of the legislative process. In fact, the experience of code development in other jurisdictions shows that they are often subject to a great deal more critical analysis by the community than the legislation to which they are subordinate.

I also expect that, once operative, codes will need to be updated. The Bill requires that all but minor amendments to codes go through the same consultative process and receive the same scrutiny as if they were new codes. Once made, codes will need to be enforced. Because of the consultation process, I expect codes to have the general support of fair traders in the industry to which they relate. In line with the co-regulatory approach taken in the development of codes, the Government will be encouraging traders to include an appropriate dispute resolution mechanism in every code. To be used to their best effect, codes need to foster a cooperative approach to their enforcement. Therefore, traders cannot be prosecuted for breach of a code.

However, since there has to be an incentive to encourage recalcitrant traders to comply with the codes, there is a two-stage process for enforcing the code. In the first instance, where it appears to the Director of Consumer Affairs that a trader is not complying with a code, the director can ask the trader to make a written undertaking to do so. If a trader refuses to make an undertaking as requested, the director can apply to the Magistrates Court for an order that the trader comply with the code. If the trader makes an undertaking but subsequently breaches it, the director can ask the court to order the trader to abide by it. Consumers who have the authorisation of the director can also ask the Magistrates Court to order the trader to comply with an undertaking.

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Two important purposes are served by requiring a person to obtain the director's approval before going to the Magistrates Court to enforce an undertaking. First, the director is alerted to the trader's failure to comply with the undertaking. Consequently, if the trader's failure is systematic, the director can intervene in the proceedings to ensure that any orders cover other consumers similarly affected. Secondly, prior to the commencement of any legal action, the director has an opportunity to ensure that the dispute resolution mechanisms of a code have been tried. It reduces the number of matters which need to come through the court system, while providing a mechanism for swift rectification of most code breaches. Traders can be fined for a breach of an order of the court. Individual traders can be fined up to \$5,000 and corporate traders can be fined up to \$25,000.

Madam Speaker, that concludes my brief outline of the Bill. As I noted earlier in this speech, this Bill is the first stage of the Government's strategy for promoting fair trading. Yet, even as this legislation is being introduced in the Territory, the Commonwealth Trade Practices Act and the New South Wales Fair Trading Act are already being reviewed. One of our tasks in the next stage will be to consider incorporating any forthcoming amendments in our new legislation. In closing, I would like us to focus our attention on the purposes of this Bill. We are all consumers. This proposed legislation will empower and assist us to become more successful consumers in a marketplace where traders know and value the principles of fair trading. Codes of practice exemplify this approach. Consumers and traders alike will benefit from laws which maximise choice and competition without sacrificing quality and service. That is the challenge of this and all future fair trading laws.

Madam Speaker, this is a significant piece of reform which will codify trade practices and consumer legislation in this Territory and will mark a new stage of consumer protection for the community. I commend the Bill and the explanatory memorandum to members of the Assembly. In presenting the explanatory memorandum, I would draw members' attention to the rather different format that this explanatory memorandum has from the traditional format, which is designed to be far clearer and easier to interpret to the community.

Debate (on motion by **Mr De Domenico**) adjourned.

#### **ADJOURNMENT**

**MADAM SPEAKER:** Order! It being past 4.30 pm, I propose the question:

That the Assembly do now adjourn.

**Ms Follett:** I require the question to be put forthwith without debate.

Question resolved in the negative.

## CONSUMER AFFAIRS (AMENDMENT) BILL 1992

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.31): Madam Speaker, I present the Consumer Affairs (Amendment) Bill 1992.

Title read by Acting Clerk.

**MR CONNOLLY:** I move:

That this Bill be agreed to in principle.

Madam Speaker, the Consumer Affairs (Amendment) Bill 1992 and the Fair Trading Bill that I have just presented are related. The amendments to the Consumer Affairs Act contained in this Bill are another part of the Labor Government's strategy to promote fair trading in the ACT. The amendments fall into three categories, each of which relates to one of the three main purposes of the Consumer Affairs Act. Before discussing the amendments in detail, I would like to outline these three main purposes of the Consumer Affairs Act and the relationship of the amendments to them.

The primary purpose of the Consumer Affairs Act is to establish the ACT Consumer Affairs Bureau and confer power on the Director of Consumer Affairs to carry out certain functions under this and related consumer protection legislation. As set out in section 14 of the Act, these functions are: To receive, investigate and take action in response to consumers' complaints about unfair trading practices; to conduct research and publicise information on matters affecting the interests of consumers; and to provide information about consumer protection laws in the Territory. The Director of Consumer Affairs and the bureau will also be responsible for the administration of the proposed Fair Trading Act. The amendments proposed in this Bill will assist the director and the bureau to carry out those new functions.

The second main purpose of the Consumer Affairs Act is to establish a mechanism for community consultation about consumer affairs and fair trading matters. The Consumer Affairs Act allows me, as the Minister, to appoint a consumer affairs advisory committee from which I can seek advice and guidance on matters affecting the interests of ACT consumers. In July this year I appointed a new advisory committee to advise me on issues of concern to ACT consumers. I have just met with the committee to advise the members about the Government's priorities for the consumer affairs portfolio and to seek their views on appropriate strategies for achieving our objectives. I am pleased that the amendments in this Bill will allow the Government to increase our already significant level of community consultation. The Bill provides for the establishment of a specialist advisory committee on product safety which will take over responsibilities presently conferred by the Act on an unspecified advisory committee.

The third category of amendments in the Bill relate to the enhancement of the product safety provisions, to provide a wider range of options for protecting the ACT community from unsafe products. The original product safety provisions were inserted into the Act in 1982 and have not been altered since. They have served the Territory well, but they are not as comprehensive as their more modern counterparts in the Commonwealth Trade Practices Act and other State and Northern Territory product safety legislation. Therefore, in line with the Government's commitment to better consumer protection for the ACT, this Bill contains amendments that will update these product safety provisions.

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Turning to a more detailed discussion of the Bill itself, I will start with the first category of amendments which expand the functions of the Consumer Affairs Bureau. The Bill brings the definitions of "consumer", "acquire", "goods", "services" and "supply" in the Consumer Affairs Act into line with those in the proposed Fair Trading Act. Except for the definition of "consumer", the proposed Fair Trading Act definitions are not significantly different from those presently in the Consumer Affairs Act.

However, as the definition of "consumer" now stands, people who acquire goods, services or interests in land for use in a business, profession, trade or calling are not covered by the Consumer Affairs Act. Consequently, complaints about these kinds of goods and services are not presently within the scope of the bureau's functions. By adopting the proposed Fair Trading Act definition of "consumer", business people will be able to seek the assistance of the Consumer Affairs Bureau if they have complaints about consumer-type goods or services. As I indicated in my presentation speech for the Fair Trading Bill, one cannot assume that all business people are in a superior bargaining position to that of the ordinary consumer. Indeed, the principles of fair trading require that all suppliers subscribe to the same minimum standards, regardless of the status of the parties to a bargain.

In addition, I note that the adoption of a broader definition of "consumer" will also cover the development and implementation of codes of practice for fair dealing between suppliers and consumers. This is necessary because, as the Consumer Affairs Act now stands, the director does not have the power to intervene in a dispute between a commercial landlord and tenant. The amendments will allow the director, when carrying out the functions conferred on him or her by the proposed Fair Trading Act, to use the full range of investigative powers contained in the Consumer Affairs Act.

The second group of amendments that I would like to discuss in greater detail establish the product safety advisory committee I mentioned previously. As a result of the updating of the product safety provisions, the new committee will be required to advise me, as Minister, on the full range of consumer product safety standards and orders that can be made under the Act. At its own initiative, or at the Minister's request, the committee will be able to advise whether a consumer product safety standard or consumer product information standard should be prescribed, amended or revoked, or whether a consumer product safety order or a consumer product recall order or notification order should be made, amended or revoked.

The final category of amendments contained in the Bill update the product safety provisions to bring them into line with their counterparts in the Commonwealth Trade Practices Act and product safety provisions in State and Northern Territory laws. Although manufacturers and importers have the primary responsibility for ensuring that goods they sell are safe, they, along with wholesalers, distributors and retailers, need guidance to ensure that the goods they supply comply with the Territory's product safety laws. As with the unfair practices provisions in the proposed Fair Trading Act, the Government therefore needs the power to impose obligations on manufacturers and suppliers to ensure that the appropriate minimum standards of safety are observed. Indeed, the Government requires access to a wide range of powers to set and enforce these standards in the Territory.

The Act currently allows the Minister to make consumer product safety orders. These orders, which are often called safety bans, can be either interim or permanent. They can either prohibit or restrict the supply of unsafe goods. Members would recall that we recently took swift action to ban certain unsafe baby cots. In addition, the Act allows the director of Consumer Affairs to make a product safety ban if a similar ban is already in force in another jurisdiction. It is an offence to supply goods in contravention of a product safety order. Consumer goods targeted by consumer product safety orders made under the Consumer Affairs Act include Help Multi-Task Cleaner, which was recently banned, the cot, and bed restraints.

The Act also empowers the Executive to prescribe consumer product safety standards. As with product safety orders, these standards are aimed at preventing or reducing the risk of injury. However, unlike product safety orders, which apply to goods already in the marketplace, these standards are aimed at the marketing of unsafe or potentially unsafe goods. For example, standards can prevent unsafe goods from coming onto the market. They can also ensure that goods which might be harmful if packaged, used or mishandled in some way are manufactured without defects and packaged, used and handled safely by consumers. To this end, a product safety standard made under the Act can require a manufacturer or importer to ensure that the product: Performs to a certain standard; contains or is free from certain materials; is designed, manufactured, processed or packaged in a certain way; or carries instructions or warning labels.

Amendments contained in the Bill extend the scope of these requirements to include: Testing of the goods; accessories or equipment supplied with the goods; and markings on display stands or vending machines used for the goods. Once prescribed, these compulsory safety standards must be observed by all manufacturers and suppliers. It is an offence to supply goods which do not comply with the applicable standard. Examples of current standards made under the Commonwealth Trade Practices Act include design and construction rules for motorcyclists' helmets and warning labels for children's nightwear.

The Bill also adds two new product safety mechanisms. The first gives the Executive power to prescribe consumer product information standards. These standards can set out the form and manner in which the supplier must indicate to the consumer the quantity, origin, quality, nature, durability or value of goods. As with the other orders and standards, supply of goods in breach of a consumer product information standard is a breach of the Act. Examples of consumer product information standards prescribed under the Commonwealth Trade Practices Act include ingredient labellings of cosmetics and care labelling of garments and household textiles to indicate the most suitable cleaning methods.

The second additional product safety power provides for voluntary and compulsory product recalls and related orders. The amendments require any supplier that voluntarily recalls goods to provide the Director of Consumer Affairs with full details of the recall within two days of taking recall action. Although voluntary recall is preferred, the Minister can order a supplier to recall goods in three situations where a supplier has not taken satisfactory action. The first is where it appears that goods will or may cause injury to any person. The second and third are where goods do not comply with a consumer product safety standard or a consumer product information standard in force under the Consumer Affairs Act.

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Of course, compulsory recall of defective goods may not be needed in some cases, while in others a recall order may not be sufficient to warn or compensate affected consumers. Therefore, the Minister has two additional powers that he or she can use instead of, or in conjunction with, a recall order. First, the Minister can require the supplier to warn consumers about defective goods and provide advice on handling and disposal procedures where necessary. Secondly, the Minister can require the supplier to choose between repairing, replacing or refunding the price of the goods and then notify the consumer which of the remedial actions she or he has chosen. However, since compliance with these kinds of orders can be a costly exercise, a supplier who is affected by such an order can, either before or after the order is made, request a conference with the product safety advisory committee, which may make recommendations to the Minister whether to make, amend or revoke an order.

Madam Speaker, before completing my overview of the Bill, I would like to draw your attention to the updated penalties for product safety provisions which are included in this Bill. It is the view of the Government that breaches of consumer product safety laws should be treated no less lightly than breaches of other fair trading laws. Therefore, the maximum fine for an offence of supplying goods which do not comply with a consumer product safety standard or supplying goods in contravention of an interim or permanent product safety order has been greatly increased. The maximum fine that can be imposed on individuals will be raised from \$5,000 to \$20,000. However, the penalty providing for a term of imprisonment of up to two years will be removed. The maximum penalty that can be imposed on corporations will increase from \$20,000 to \$100,000.

The additional offences created by this Bill which prohibit the supply of goods that do not comply with consumer product information standards or product recall orders will also attract similar fines. These penalties are in line with those in the Fair Trading Bill and those applying to similar product safety provisions in the product safety legislation of the Commonwealth and the States.

In conclusion, I am happy to say that I expect that these new product safety provisions will be rarely called upon. The Trading Standards Office of the Consumer Affairs Bureau already works cooperatively with the Federal Bureau of Consumer Affairs and other State and Territory agencies. This cooperative venture ensures that, as far as possible, traders are aware of product safety before they market their goods, so that unsafe products are not sold in the Territory or, indeed, anywhere in the Australian market. The safest marketplace is, after all, a self-regulated one. Madam Speaker, with this Bill, and the Bill that accompanies it, the Labor Government has achieved a significant reform in bringing the consumer protection laws in this Territory up to modern standards which, I am pleased to say, was something that I pledged myself to in my introductory speech when first sworn into this Assembly as a member. I commend the Bill to the Assembly. I particularly commend the work of officers in the Consumer Affairs Bureau and the drafting office who have prepared this quite substantial and massive package of reform. I commend the explanatory memorandum to the house.

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

## ADJOURNMENT

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

That the Assembly do now adjourn.

### Media Depiction of Violence

**MS SZUTY** (4.43): I rise again in this Assembly to discuss a magazine cover that I find offensive. This time it is not in relation to its denigration of women, but in its depiction of overt violence. Madam Speaker, the magazine is not one which is usually associated with sensationalism, but one which enjoys a certain reputation for its political articles and its monthly Gallup poll on political leaders the *Bulletin*. I refer to the cover of the 4 August edition and I seek leave to table the magazine.

Leave granted.

**MS SZUTY**: Madam Speaker, the cover depicts a person being killed with a knife. The attacker appears to be ambushing his victim from behind a tree. The headline overprinted on the picture is "REVENGE", in large red letters. The subtitle reads: "Murder is the ultimate revenge: how far would you go to get even? Page 36". Turning to the article, the reader is informed that the photograph is of a Karen guerilla killing the other person, who appears younger than the murderer.

What revolts me about the image used is that it does not relate to the article which is, in the main, about revenge and how it is a taboo in Australian Christian thinking. The article outlines Australian revenge by examples of people growing trees on their properties to block neighbours' scenic views, or a businessman trying to damage an adversary's reputation. There are other pictures used in conjunction with the article showing South African and Bangladeshi violence. While the captions are barely descriptive of the pictures, the pictures in no way back up the story. There are 13 references to ethnic groups in the article in the space of five paragraphs.

In every case, struggles for freedom and long-term ethnic wars are dismissed as motivated purely by revenge. The riots that followed the Rodney King trial in the United States are dismissed as being a case of revenge by African Americans against Korean shopkeepers. There is no mention of the jury verdict and the outrage felt by black Americans that this was a miscarriage of justice and that there had been a blatant abuse of power. There were elements of Korean-African-American conflict in the riots, but to dismiss them as an example of revenge and nothing more, particularly when the bulk of the article discusses the seemingly benign Australian experience, implies racist attitudes.

I find the sensationalist tactics, of using these images to depict what is, if read without the pictures, a rather bland article, highly offensive. We have had in this Assembly what I felt was a very constructive airing of views on the demeaning depiction of women in magazines. I find that there is as much offence in the gratuitous use of violent images. As in the case of so-called soft porn magazines, people visiting their local newsagencies should not be confronted by such images.

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Imagine the impression that this must have on people who have experienced violence in their lifetime. What of refugees who have now escaped such experiences? There are many people who find these images distressing, and they deserve to have their right not to be confronted with it protected.

Again, as I have said before, I do not seek to have such material removed from its readership. However, I find no saving grace in this instance. There appear to be no guidelines such as those referred to on demeaning images of women. The closest guidelines I have discovered are the guidelines issued by the Minister responsible for censorship, which read:

Publications which contain exploitative, realistic and gratuitous descriptions of violence will warrant a restricted category 1 classification.

Members, I have formally lodged a complaint about the violent images depicted in the 4 August edition of the *Bulletin* with the Press Council of Australia and, as other such complaints have also been received, the Press Council has scheduled a hearing into the issue. I have also made my concerns known to the Arts, Entertainment and Media Alliance, AJA section, and Australian Consolidated Press, which publishes the *Bulletin*. I will conclude by further expressing my distress at the use of these images, and I hope that such imagery does not become a hallmark of what I had considered to be a reputable magazine.

### **Scout Visit to Russia**

**MR STEVENSON** (4.48): Madam Speaker, during the meal break yesterday I attended a Scout function where they had a presentation on a remarkable expedition to Russia by some of the ACT Scouts. After the Chernobyl disaster in the Soviet Union a number of children from that area came to visit Australia. Late in 1991, the secretary-general of the Scout movement, Dr Jacques Moreillon, was in Canberra. At a meeting he challenged ACT Scouts to send a patrol to the Soviet Union, to Russia specifically, to help them rebuild the Scout movement. Scouts originally began in Russia in 1908, but shortly after 1917 they were banned.

The Scout troop did the job. They made everything go right. They got some wonderful local sponsors. About 40 Scouts took part in the expedition between mid-June and mid-July. As I recall, 11 were from the ACT - three leaders and eight children. They visited St Petersburg - that awful tag "Leningrad" has gone - and Moscow as well as Dubna. Dubna was once a closed city in the Soviet Union. You could not go there. You could not take photographs because of the atomic energy installations there. That has all changed. Now you can stand outside the building and get your picture taken. That is good. There have been some wonderful changes in the Soviet Union. It is good to hear that children from the ACT are extending the hand of friendship.

They had two major goals: First of all, to assist Russians and Russian children in rebuilding the Scout movement; secondly, to gain developmental experience as Scouts from Australia. It was the first ever international Scout camp held in Russia. I know that there were many friends made during the trip. Three of the eight people who went from the ACT are continuing to learn Russian. Before

they went, part-time over an eight-week period, many of them learned to speak some Russian. They were able to converse to some degree. I remember that when I travelled across the Soviet Union I used to tell people that I could speak fluent Russian - Dostoievsky and Bolshoi; but that was about it. These children, prior to going, took the trouble to learn some Russian. I think it says a lot for their determination. It says a lot for the many local sponsors who helped this Scout patrol go to the Soviet Union.

Trevor Kaine is worthy of commendation in this matter because he donated to that expedition. That was very kind of him. I know that many other people did, too; but I cannot mention everybody. They also applied to the ACT Government for assistance prior to going. Unfortunately, that request could not be met because of a shortage of funds. The entire trip cost somewhere about \$40,000, or a touch under. I believe that they are still \$9,000 down on that. If it is possible for the Government to give them a grant I think it would be money well spent. They do a good job. I listened to some of the children speak yesterday and if they are an example of children in the ACT I think they have done us proud.

### ***Canberra Times - Police Investigation***

**MR KAINE** (Leader of the Opposition) (4.52): Madam Speaker, over the last 48 hours or so there has been a great deal of concern about the leaking ship. Well, it would appear that there is a huge torpedo hole in the side. I would like to share with members of the Assembly a document that came into my possession quite recently. I would like to read it into *Hansard*. It is a letter that says:

My Dear Chief Minister,

I am writing to express serious concern about the actions of your Government in sending police to The Canberra Times yesterday. I can think of no precedent in at least a decade for such an action being initiated by government, state or federal in Australia.

If you and your government have a problem with the security of information, either in ministers' offices or in the administration at large, it ought, I suggest, be dealt with as a problem at source, rather than in clumsy and inevitably unsuccessful attempts to intimidate the media.

The Canberra Times takes seriously its obligation to bring to the people of Canberra matters of public interest about the administration of Canberra. The interest of our reporters is never going to be confined to a redigesting of the material your administration and ministry's considerable public relations apparatus deems fit to issue but will involve questioning of ministers, administrators and others and the following up of information we garner from informal sources. We do not suborn sources. We will not refrain from using leaked material: indeed, so routine is leaking as a form of news management, at all levels of your government that it would be difficult, in any event, to know what information your government wished suppressed and that which it wanted out in ways that it thought it could control.

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I am very concerned at what I perceive to be an increasingly authoritarian and anti-civil libertarian tendency emerging at various levels of government in Australia. I hope that your government's exercise in tin-pot fascism on Tuesday does not represent a new phase of this developing in Canberra.

Yours sincerely.

It is signed by David Armstrong, editor of the *Canberra Times*.

### **Aid to the Unemployed**

**MR HUMPHRIES** (4.54): Madam Speaker, I want to refer to something which impressed me when I read about it a few days ago in a publication called the *Canberra Times*. This august and eminent publication in our local burgh ran a story on page 3 of that paper on 26 August about a promotion by Bell's Drycleaners in Canberra in respect of unemployed people. A picture of Mr Nick Moufarrige, the managing director of Bell's Drycleaners, appeared with the article. Mr Moufarrige was quoted in respect of the offer that Bell's had made in respect of unemployed people.

I gather from the article that the company has agreed to clean an outfit free for any person who is genuinely unemployed and going for an interview for a job. Mr Moufarrige said:

One of the things we thought we could do was to ensure that when people went to an interview they were, at least, well presented. If you're well turned out you feel better about yourself and are more confident going to the interview.

I think that that very welcome gesture by Bell's Drycleaners indicates that people's attitudes towards the unemployed have changed quite dramatically in recent years. The concept of the unemployed as being dole bludgers has long disappeared in an environment where unemployment, unfortunately, strikes very good people very often. People who are eminently capable of holding down jobs in any normal environment find themselves unable to do so because of the devastating effect of unemployment in this community. Obviously I could say a lot about the causes of unemployment.

**Mr Connolly:** Bell's will have to put on another line if Dr Hewson gets in.

**MR HUMPHRIES:** Those opposite think this is funny and think unemployment is a very frivolous matter. Those on this side of the house at least view this with great seriousness. We hope that there are more people like Mr Moufarrige from Bell's Drycleaners who will make the effort to show unemployed people in this community that they are not considered lepers in our community because of

having been struck by the plague of unemployment, but rather they are people with whom we should all have a certain empathy and who deserve our support. I hope, through gestures like this, that people who we hope will soon be put in a position of - - -

**Mr Lamont:** You are the Canberran who did not want York Park to proceed. Stop the jobs, stop the jobs!

**Mr Kaine:** What has that to do with the unemployed?

**MR HUMPHRIES:** Madam Speaker, it is very hard to get anything said.

**MADAM SPEAKER:** Yes, between one side and the other, Mr Humphries. Order, please!

**MR HUMPHRIES:** Thank you, Madam Speaker. I think we would all empathise with these people. We would all hope that, through gestures such as this, people on unemployment benefits or in that position would be soon removed from it because of the support they get from the community in this present economic environment.

### ***Canberra Times - Police Investigation***

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (4.58), in reply: Madam Speaker, I rise to speak in relation to a letter from Mr David Armstrong that was read out by the Leader of the Opposition. I have to say that the words used were surprisingly inelegant. I would have thought that the Leader of the Opposition would have taken the opportunity to be even-handed and perhaps secure the response by the Chief Minister to Mr Armstrong. In any event, I will read this onto the record. This is a letter from the Chief Minister to Mr David Armstrong. It states:

Dear Mr Armstrong

Thank you for your letter today about the visit yesterday by police to the offices of The Canberra Times.

My Government has not sent police to your newspaper. Your paper's report of this matter contained a number of factual errors.

The Head of Administration, in consultation with the Secretary of the Department of Health, asked the Australian Federal Police to investigate an alleged leak of information to The Canberra Times.

The methods used by the Federal Police in investigating a possible breach of the Crimes (Offences Against the Government) Act are an operational matter which you would realise is not subject to direction by the Government. There was no involvement by any Minister in the decision of the police to approach the newspaper in the investigation of this matter.

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My own concern in this matter is solely with the security of confidential information and, as you suggest, identifying and dealing with the problem at source.

I take freedom of inquiry, debate and criticism as a very serious issue. A free press and free speech are a vital part of our democracy.

Yours sincerely,

Rosemary Follett.

Question resolved in the affirmative.

**Assembly adjourned at 4.59 pm**

**ANSWERS TO QUESTIONS**

**ATTORNEY GENERAL FOR THE AUSTRALIAN CAPITAL TERRITORY**

**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION NO. 241**

**Consumer Affairs Legislation**

MRS CARNELL - Asked the Attorney General upon notice on 11 August 1992:

- (1) Does the Sale of Goods Act 1954 in any way duplicate the Consumer Affairs Act 1973?
- (2) Will the Government consolidate or remove any sections of these two Acts which duplicate each other?

MR CONNOLLY - The answer to the members question is as follows:

- (1) The Sale of Goods Act 1954 and the Consumer Affairs Act 1973 do not contain duplicate provisions.
- (2) The Sale of Goods Act 1954 contains provisions which regulate the formation and performance of consumer contracts. Whereas the Consumer Affairs Act 1973 establishes the Consumer Affairs Bureau, makes provision for consumer affairs advisory committees and allows for the imposition of consumer product safety orders and standards.

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**MINISTER FOR HEALTH**  
**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION NO. 263**

**Tubal Ligation and Vasectomy**

Mr Cornwell - asked the Minister for Health:

- (1) Do age restrictions exist for tubas ligation and vasectomies in the ACT.
- (2) If so, what are these age restrictions and why are they imposed.

Mr Berry - the answer to Mr Cornwells question is:

- (1) No.
- (2) The judgement is one reached by the medical practitioner with the individual patient.

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**MINISTER FOR EDUCATION AND TRAINING  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO 274**

**Institute of TAFE - Southside Campus**

MR CORNWELL - asked the Minister for Education and Training -

In relation to the Woden Valley TAFE.

- (1) What was the cost incurred in the conversion of the old Woden Valley High School to its current use as the Woden Valley TAFE.
- (2) Is the original TAFE complex currently being used; If so, by whom and for what purpose; if not, what is intended to be done with it.

MR WOOD - The answer to the Members question is as follows:

- (1) The cost to refurbish the Woden Valley High School (now known as ACT Institute of TAFE - Southside Campus) including asbestos removal and additional car parking areas was \$9.825M.
- (2) The original TAFE complex in Callum Street is currently undergoing refurbishment and fitout for office use. Re-occupation is programmed for March 1993 and the proposed tenants of the refurbished building are the Housing and Community Services Bureau, the Government Computing Service, and the ACT Housing Trust.

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