DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

13 December 1990

Thursday, 13 December 1990

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

HEALTH SERVICES BILL 1990
Detail Stage

Debate resumed from 12 December 1990.

Clause 1 agreed to.

Clauses 2 to 5, by leave, taken together, and agreed to.

Clause 6

MR BERRY (10.32): I move:

Page 4, at end of paragraph 6(1)(a), add the following new words and subparagraphs:

"to include, without limiting such services:

(i) medical and hospital services;
(ii) diagnostic, therapeutic and rehabilitation services;
(iii) dental services;
(iv) nursing services;
(v) public health services;
(vi) ambulance and other transport services, including those services outside the Territory for residents of the Territory;
(vii) research and advisory services;
(viii) forensic and veterinary laboratory services; and
(ix) any service which is incidental to a service referred to in this subsection.".

The amendment seeks to include a description of the services that would be provided under the heading of "Functions" of the Board of Health. It is important, from the Labor Opposition's point of view, to include a clear description of the functions of the Board of Health in order that it is clear to anybody who makes reference to the Act that those services are indeed provided by the Board.

It is notable that in the Bill before the house those services are not directly referred to. For example, in the old Community and Health Service Act 1985 those services were directly referred to. Take, for example, the provision of ambulances. There is no provision which clearly sets out, as a function of the Board, the provision of ambulance and other transport services.

In the view of the Labor Opposition, it is most important to ensure that there is clarity in describing the functions that the Board will perform in the course of the services that it is required to deliver to the people of the ACT. I do not know why the Government has chosen not to include a clear description of the services to be provided. It has not been made clear to me at any point, and it strikes me that this must be an oversight, because it is important, as I have said, that it is clear to all those who might refer to the legislation that these services are properly delineated.

The Australian Labor Party prefers the functions clauses outlined in the Community and Health Service Act 1985 and I cannot see why the Government would be opposed - if in fact they are; we are not in any way able to assess their position yet - to setting out a clear description of the functions of the board in the Bill which is before the house.

The amendment, of course, ensures that the provision of extra services is not limited by the list of services which the Labor Opposition seeks to include in the Health Services Bill. But the Health Services Bill itself, of course, is not as clear. Clause 6(1)(b) of the Bill states:

> to manage the health services and health facilities under its control.

That is not a clear statement, because one would find it difficult to work out what health services and health facilities were indeed under the control of the board. If one refers to the interpretation clause, clause 3, one sees that "health facility" means "an institution under the Board's control"; but it does not talk about the sorts of services that might be provided from the facility.

It does talk about providing for the planning and evaluation of health services; it does talk about providing for the training and education of persons providing health services; and it does talk about making available to the public reports, information and advice in relation to the health of the community and the availability of health services. Clause 6(1)(a) merely says:

> to provide health services for the residents of the Territory and, as appropriate, for the residents of the surrounding region.

But it goes no further than that. It certainly falls well short of the comprehensive list of services provided under the old Act. What we set out to do is to include that comprehensive list of services, but at the same time not place any limitations on the provision of such extra services as might be provided by the board in its own right or by direction of the Minister. I note that the board is subject to the direction of Ministers and I have to say that I noted with some amusement the statement by the Minister in the in-principle debate on this Bill that it was important to have the management board at arm's length from the Government.

The fact of the matter is that this legislation makes it clear that the board is merely an arm of the Government because the board is unable to provide its services without the direction of the Minister. Under the heading "Powers", clause 7(3) states:

> The Board shall exercise its powers in accordance with any directions given by the Minister.

So the Minister, of course, has some control over the services that will be provided by the board, but it is important that the Act ensures that the Minister is required to provide a detailed list of services. That is why the Labor Opposition has set out to ensure that the services to be provided under the Act are specified and that therefore the Minister is required to deliver those services.

It seems to me that if they are not listed the Minister can decide, in his wisdom or otherwise, to delete a whole range of services that would otherwise have been provided to the people of the ACT. I suspect that that might be behind this; the Minister might then be able to cut out the provision of services to the community. He may well decide that he does not want to provide an ambulance or other transport service, and there is no obligation under the Bill for him to do so. I suspect that the Minister will deny that he has any intention of doing that; but what we set out to do is to ensure that there is a list of required services to be provided under the Act, and the Minister will be limited in his discretion as to the effect that he might have on the withdrawal of those services.

The very clear setting out of the functions in the Act, of course, would require the Minister to ensure that those services continue to be provided to the people of the ACT, whereas in the case before us, under clause 6 of the Bill, the Minister is not obliged to provide some of the services which were listed under the Community and Health Service Act 1985. I think it would be a backward step for the Government not to include a comprehensive list of the services that the Board of Health is required to deliver to the people of the ACT.

MR HUMPHRIES (Minister for Health, Education and the Arts) (10.43): Mr Speaker, Mr Berry began his remarks on this amendment by saying that he could not see any reason why the Government would not support his amendment, but then proceeded to give us all sorts of reasons why he was sure that we would not. As usual, he is having it both ways. The fact is that the Government will not support this amendment that Mr Berry has put forward. Mr Berry sees the omission of this descriptive function from the Bill as feeding the kind of political fantasies that inhabit Mr Berry's mind - that the Government has a secret agenda of privatising things or not providing services. Quite frankly, to suggest to this place that the Government would seriously consider not providing ambulance services, nursing services or dental services is just stupid.

Mr Berry: Why don't you say that you will? Write it down.

MR HUMPHRIES: If Mr Berry would care to listen, he might find out why. The fact is that to describe services in this fashion is prescriptive and it limits the flexibility which current legislation, not just in this State but elsewhere, seeks to achieve. I, for example, do not know whether in the long term, looking at paragraph (vii) of Mr Berry's amendment, the Board of Health ought to be providing research services. I do not know whether that is the case or not. Perhaps it should; perhaps it should not. I would not wish to be saying to the board, "You must do all these things, as you are doing them now, and nothing should change in the future". We see opposite the true conservatives, the people who are truly unwilling to accept any changes to the status quo.

The most compelling reason for rejecting this amendment is that Mr Berry has not done his homework, as usual. As I indicated in my remarks yesterday and on the day on which I presented this Bill, the legislation we are bringing forward is based on another model, the model of the New South Wales area health boards. The New South Wales area health boards, as I told the house yesterday and as I have said previously, were established by the New South Wales Labor Government in 1986, and, if Mr Berry would care to refer to section 20 of the New South Wales Area Health Services Act 1986, he will see that the functions of the area health boards are set out in very similar terms to clause 6(1) of this Bill coming before the house today - extremely similar, if not identical terms. There is no descriptive list of services as described by Mr Berry in his amendment - none at all.

Clearly the Labor Government of New South Wales felt it was more important to preserve flexibility in the operation of area health board services - a flexibility which Mr Berry apparently does not believe can be entrusted to other than Labor governments. As far as I am concerned, it is important to preserve the flexibility of those services. There is no reason to prescribe those services. A health service which did not offer those services would be hard to

imagine, but I do not believe it is appropriate to prescribe in such a restrictive fashion exactly what will be offered by the health service.

It also needs to be mentioned that to fail to mention other possible services is somewhat peculiar, and I have to say that such a list as that proposed by Mr Berry would unnecessarily narrow perceptions about the types of services that the board is able to provide to the people of Canberra. They will naturally change over time, they have changed considerably over time in recent years, and there is no reason why they should not continue to change quite dramatically. If that is the case, then there needs to be flexibility. I therefore urge the house to reject Mr Berry's amendment.

MR MOORE (10.48): Mr Speaker, I cannot accept what Mr Humphries is saying about limiting the flexibility of the Board of Health. In fact, the amendment proposed by Mr Berry starts:

> to include, without limiting such services ...

It is quite clear that there is no limitation on it, but the advantage of what Mr Berry is suggesting is that the health board must not be seen to be a revitalised or new form of hospitals board. By adding and qualifying in the way Mr Berry has, it seems to me that the board and the people of Canberra will realise, and be in a position to see quite clearly, that the board in fact has much broader scope, and ought to operate over a much broader scope, than just that of a hospitals board.

I believe that everybody in the house feels that if we are going to have a health board - and I accept the proposition of having a health board - it ought not to be limited in scope at all. But it ought to have an emphasis; there is a need to take the emphasis away from hospitals and towards health promotion and the other aspects of health. By listing some of those, and a broad range of those, we would make the situation quite clear to any layperson reading the legislation - and the nature of this sort of legislation is that it does get read by laypeople, just the same as the Schools Authority Bill has for a long time been read by members of school boards and by people interested in that matter. They are not lawyers about to take things to court, but they are people trying to work out what they ought to be doing. So it becomes quite important for the board, and for people who are interested in what the board is doing, to understand what it is about and what its nature ought to be. We had it quite clearly explained by Mr Humphries in his introductory speech that the board ought to have a broad nature.

I would ask the Government to reconsider this amendment. It does not limit at all. It starts, "to include, without limiting such services", and puts a totally different emphasis on the board. It changes the emphasis away from

being just that hospitals board that we have been used to - with the money being spent on the hospitals and an emphasis being on the restructuring of the hospitals - to what the board ought to be about, namely, a much greater overview of health. That is the advantage of a health board over a hospitals board.

The notion that it takes in dental services, for example, would go beyond most people's immediate reaction of dealing with health. A number of times in this house we have had discussions on fluoride, and that issue becomes a health issue. I realise that that issue is likely to be resolved in this house; however, it is good to use it to illustrate the sorts of issues that a health board ought to be aware of. This is emphasised again by part (v) of Mr Berry's amendment, which draws attention to public health.

This amendment was tabled yesterday; so there was plenty of time for the Government to look at this, see the sense in it and react positively to it. There is still enough time for the Government to realise that this does no harm whatsoever - it does not take away from the Bill - but in fact adds an element to it, an element of making it easy to understand for the layperson, not for the lawyer. I think that is a very important element.

We have a situation where the health department realised that, at the Minister's behest, there was going to have to be a health board and it was going to require legislation. Instead of taking the time to prepare it, to work out what was going to happen, to table draft legislation to allow us to sort out exactly what the nature of the health board would be, this Bill was put together quickly - the drafting instructions were drawn up very rapidly and then the legal office had to draft it quickly.

I have no difficulty with the actual drafting of the Bill, but clearly the drafting instructions have all been done in a rush-it-through manner for something that did not require such speed and such rushing through; it was just that Mr Humphries obviously felt that it was important to get it done, to start looking good on health matters and to try to be seen to be doing something positive. He could have announced that the board would be established early next year, after the legislation, which would have been a far more effective way to deal with this. But, no; instead, this Government is trying to push through something that is not really ready.

That is best illustrated, of course, by their own amendments - where there has been a bit of pressure at the last minute from the AMA and so they decide that perhaps they had better bend to that pressure without further discussion. So we have a situation where the Government is illustrating its incompetence in dealing with this.

Since we have got to this situation and we are clearly going to push it through today, what the Government should do is reconsider this, look at what Mr Berry is suggesting, realise the good sense of it in providing additional parts to the Bill, in expanding the Bill and for making it better, and accept the amendment and run with it.

MR BERRY (10.54): This is a classic example of the Liberal Party again pretending that it is something that it really is not. This is the classic privatisation move by the Minister - on his own admission. In the debate over this issue one of the first things he talked about was whether or not research and advisory services would be necessary in a public hospital system. "I do not know", he said, "whether they would be necessary or not".

That is why there has been a deliberate decision made not to list the sorts of services which have been provided in the past to the people of the ACT, and that is why it can be clearly seen that this Government is following its slavish commitment to the Priorities Review Board report to rationalise services to the people of the ACT. The Chief Minister grimaces. No wonder! Of course, he pretends that he is an innocent party in this matter, but he is not. The fact of the matter is that what the Liberals - and the Residents Rally and those other members of the Government - are about is endorsing a piece of legislation which will allow the Government to withdraw services from the public hospital sector and from the people of the ACT. The Liberal Party is pretending that it is something it is not. It is a classic example of the Liberal Party's presentation of itself to the electorate.

Talk about political fantasies. Nobody is fooled by the Government opposite. Mr Humphries said that the lists that were put up by me in my amendment were proscriptive. I have to say, Mr Humphries, that you have got it wrong, because it is clearly not proscriptive. It says:

> to include, without limiting such services:
>
> (i) medical and hospital services;
> (ii) diagnostic, therapeutic and rehabilitation services ...

Do you think those ones will - - -

Mr Humphries: Yes, but you must include those things; it is prescriptive.

MR BERRY: Of course, but it does not exclude any extra services. The fact of the matter is that this sets out to ensure that services are provided by the public hospital service in the ACT, and to prevent the Government from winding back the delivery of those public hospital services to the people of the ACT, particularly to the people that cannot afford to use the private sector services which this Government favours.

It has made its position on the delivery of private hospital services very clear to the people of the ACT. It favours an expansion of expensive private hospital services - private hospital services which many of the people of the ACT just cannot afford. This piece of legislation ensures that the Government will be able to do that, because there will be no requirement under the legislation for the Government to provide a list of services such as is set out in the amendment which has been circulated in my name.

Mr Humphries put great weight on his argument that it was done by the New South Wales Labor Government, so it was all right, and referred to the New South Wales area health boards. Do the area health boards in New South Wales provide ambulance services? I suggest that they do not, and I suggest that the area health boards in New South Wales do not provide a range of other services either. So I think it is - - -

Mr Humphries: They do provide some.

MR BERRY: Yes, that is right; probably some. But what about - - -

Mr Humphries: Why were they not listed?

MR BERRY: What I suggest to you, Mr Humphries, is that they do not provide them all, and what you are setting out to do is to ensure that you have a free hand in cutting services to the people of the ACT, particularly to the people who cannot afford expensive private hospital services, because you have clearly demonstrated your commitment to the withdrawal of services from people who cannot afford those expensive private sector services. There is no question about that; that is clear to the community.

This is the old Liberal line of privatisation - "Leave it open so that we can privatise it". And, of course, the people who lose are the ones at the lower end of the socioeconomic scale, as is always the case with the conservative policies of those opposite. What is most disturbing is the fact that the Residents Rally party members opposite are just sitting back copping this. Bernard Collaery might say that it is because the bureaucrats are running Gary Humphries, that he is not bright enough to work out what the bureaucrats are doing. But I know that Mr Humphries is quite bright enough to implement the Liberal philosophy and he is quite bright enough to slavishly follow the Priorities Review Board report on rationalisation of services to the community.

It has to be said that this piece of legislation presents a real danger to the people of the ACT when it comes to delivery of public hospital services, and that is why the Australian Labor Party in opposition has set out to attempt to expose the Government in order to prevent it from cutting back on those services.

If the Minister is game, he ought to be saying, "Yes, we will include all those services that were listed under the old Act. We will include them all, and we adopt the amendment which has been moved by the Labor Opposition". But he will not do that because it ties him to the continuing delivery of a list of services which have been delivered to the people of the ACT in the past. What he would say is that his proposal provides flexibility. Yes, that is right, flexibility - flexibility to privatise. That is what it boils down to. I am not fooled by your legislation, Mr Humphries and Mr Kaine; I am not fooled at all. The people of the ACT will not be fooled either, and I think that if this Bill is allowed to pass there will be more battles as services are withdrawn.

Let us not forget that already services to the people of the ACT are being withdrawn under this so-called Liberal Government opposite, with the support of the Residents Rally and other members of the Government. Waiting lists in the public hospital system are increasing; there is more pain and suffering in the community, particularly amongst the poor; and those people opposite are the ones who are responsible for that. They are the ones who have withdrawn services from the people of the ACT. They are the ones who will withdraw community health services to the aged in Weston Creek, and in other places, I suspect. Irrespective of what Craig Duby promises about the Melba Health Centre, it is still an issue for consideration by the Government. Mr Gary Humphries has given no commitment that that centre will stay open.

That is why I say to you, Mr Speaker, that the way that this legislation that has been drafted allows this Minister and this Government to persist with its policy direction of rationalising services to the people of the ACT, withdrawing them, and handing them over to the private sector. Of course, the end result is that the community health services are inadequately dealt with, and community health declines. But that is not something that they are concerned about; that is not the constituency that this Government represents. It has never pretended to represent working class people; it represents only its big business mates. This is another example of big business putting pressure on conservative government to rationalise the delivery of hospital services - to leave open the door, if you like, for a cut in services to the community. The Labor Opposition will not accept that. It will fight to retain top quality services for the community and it will continue to fight while ever there are threats to those services.

The Minister in his speech today made it clear that some of the services that have been provided under the current provisions, the Community and Health Service Act, are under threat. He said that. They are under threat. He said, "I do not know whether we need to provide research and advisory services". Do you mean to tell me, Minister, that you do not know whether we need to provide research and advisory services? And you are the one that is sponsoring this Bill. You talk about me not having done my homework. What a joke! The fact of the matter is that this legislation must be strengthened to include the amendments that I have circulated.

MR KAINE (Chief Minister) (11.04): I would have to say that if I demonstrated any facial expression earlier, and I do not think I did, it would only have been made at the fact that Mr Berry was getting to his feet to rabbit on and to crank the handle on the old ideological speech; and out come all the old familiar words: "your big business mates", "privatise", "fire sale" - all of the old ideological stuff. He has a very limited vocabulary. You turn him on and out it will come - not that he ever adds anything to the debate; he just cranks the handle and out it comes, rabbiting on about privatisation. If this Government had the intention of privatising anything, it would have done so. It has not privatised one single operation - not one.

For you to throw this out there and to misrepresent to the stage where people may well be worried about the quality of the health service they are getting is totally irresponsible. But, of course, it is the kind of action that we expect from them. There is no responsibility whatsoever.

Mr Berry: Mr Speaker, I raise a point of order. There was an imputation that I had misrepresented the facts, and I think that ought to be withdrawn.

Mr Kaine: So you did.

MR SPEAKER: No, I believe that - - -

Mr Berry: I think "misrepresentation" is a little bit over the top, Mr Speaker.

Mr Kaine: He did misrepresent. He said that we were privatising the health service. We are not. That is a gross and total misrepresentation.

MR SPEAKER: Order!

Mr Berry: On the point of order, Mr Speaker: as is the practice in this place, you allow people to speak on these issues. What the Chief Minister is referring to is my comment that this Government is about privatising hospital services. They have shown that in the past; they have said that they are going to expand the private sector by at least 10 per cent. That is not a misrepresentation.

MR SPEAKER: Order! I do not believe it is a valid point of order. If you wish to make a personal explanation under standing order 46 at the end of the speech, you may do so.

MR KAINE: Of course it is not a valid point of order. It is the old trade union tactics again: stand up, disrupt, break up the debate, do not let the opposition have a say. You have had two speeches and you will not even let me have one. They are your tactics, the bully boy tactics of the trade unions - absolutely typical. I refute entirely this allegation that he keeps bringing up about privatising. We are not privatising the hospital system; we have no intention of doing so.

He then raged on about expanding the private hospital system that most people in Canberra cannot afford. It is the very reason why we are expanding the private sector hospital system. It does two things, but Mr Berry would not understand either. The first thing that it does is take out of the public hospital system people who can afford to go somewhere else; it provides a facility that they can go, and that leaves those facilities open for the people who need them, which is exactly our intention. The second thing that it does, which would totally escape Mr Berry's small mind, is that it reduces the cost to the public purse. They are both good reasons why you would allow the private sector hospital system to expand, to bring it more into line with what exists elsewhere in Australia. But Mr Berry would not understand that. He is so ideologically switched off that he cannot comprehend any sensible approach to providing hospital services and health services for those people who need public health services. He simply could not begin to comprehend it.

He talks about withdrawing services. The Government is not withdrawing any services from the health system. It is a total misrepresentation; more of that distortion that Mr Berry is famous for. It has got to the stage where nobody ever listens to him because they know that these words just crank out. He does not mean them, he does not even understand them, he knows that they are untrue; but he just keeps spouting them out, and everybody is just switched off to it.

Mr Connolly: Mr Speaker, I rise on a point of order. We have discussed "misrepresentation", but now we have, "He spouts things knowing them to be untrue". Is that acceptable?

Mr Kaine: Well, he does know it to be untrue.

Mr Connolly: See, he is doing it again.

MR SPEAKER: Order! Order, Chief Minister!

Mr Connolly: The Government can set the precedents here, but we seem to be dropping - - -

MR SPEAKER: Look, it is a moot point. I think I will leave it to Mr Berry to make an explanation on that one. I do not want to have a withdrawal, unless you force the issue.

Mr Berry: I think we ought to force the issue.

Mr Connolly: So, it is acceptable to say that a member on the other side of the house is making a statement knowing it to be untrue?

Mr Kaine: Yes. Mr Berry does it all the time. What is good for the goose is good for the gander. What is good for "Big Ears" is good for "Little Ears".

MR SPEAKER: Order! Order, Chief Minister!

Mr Collaery: Mr Speaker, I am having a Federal Hansard delivered into the chamber wherein Dr Hewson was permitted by the Speaker on the hill to say that Mr Keating had misled the Australian people. That statement was allowed last week and was clearly broadcast on all of the news items. I suggest, Mr Speaker, that we adopt on that basis a similar ruling. I will have that in the chamber shortly.

Mr Connolly: Well, Mr Berry was forced to withdraw that yesterday.

MR SPEAKER: Order! My understanding of the terminology of "misleading" is that, if the Assembly has been misled by a member, that is a serious charge. If somebody states that the public have been misled by a statement, I think that is a different issue, and that is what is being said at this time, I believe.

Mr Berry: He said that I misled.

Mr Connolly: In a speech to the Assembly.

Mr Berry: This is on the public record.

Mr Kaine: Mr Speaker, I do not know whether we are carrying on a debate here or what we are doing.

MR SPEAKER: No; I have ruled on that, Mr Berry. My interpretation is that it was not a personal attack on you as a member of the Assembly but a reference to statements that you have made to members of the public. Please proceed, Chief Minister.

MR KAINE: But you see, Mr Speaker, what we are seeing here is a typical example of the Berry approach: disrupt the debate; do not let the Government have a chance to say anything. You see, he has successfully used up nearly seven minutes of my time by these tactics. And he thinks that fair debate. It is typical, as I said before, of the trade union bully-boy approach. But I do not mind, because

I am going to say what I want to say. He can carry on with his tactics and I am prepared to stay here, as we did the other night, until way past midnight tonight, if that is necessary, to debate this Bill and pass it. So you just carry on with your games; that is fine. Maybe you might even do a Mr Moore and take your bat and ball and go home if we get you upset.

The fact is that the intention of this Bill is to provide a complete and comprehensive health system for the people of the ACT - one which is an excellent health system and, as the bottom line, a health system we can afford; not the gold plated Taj Mahal that the former Minister would have provided, if he could ever have found where the money was to come from. I presume he still thinks that there is a pot of gold at the bottom of the rainbow and you can pay for anything that you can conceive of. That is not the case.

We will provide an excellent health service, we will provide it within our means, and we will provide - and Mr Berry seems to denigrate this - an increased private health system so that those who can afford it will use it - - -

Mr Berry: You just said a minute ago that you would not.

MR KAINE: I did not say that. You see; another lie, another misrepresentation. I said that we would increase the private health system for those who could afford it, and I will repeat it: what I said before - - -

Mr Berry: That is privatisation, Trevor.

MR KAINE: It is not privatisation; it is allowing the private sector to do what it does best - to provide a health service for those who can afford it. And that does two things, as I repeat: it takes out of the public health system the people who do not need to be there, and who can well and truly afford to pay to get their health services from somewhere else; and it makes those facilities available for those who do need them, and it provides the public health system for those who do need it at lower cost to the public. If Mr Berry can argue that that is unreasonable or illogical or irrational, I do not know what sort of debating school he learned to debate in. The fact is that he has this ideological bent and his whole intention is not to carry on a debate about the health system but to denigrate the Government. And he thinks that is debating; well, it is not. I am not impressed by it and I do not think anybody else is either.

It is a nonsense to suggest that, because we do not adopt his words and spell things out in great detail - in a way that the New South Wales Labor Government did not see as necessary - somehow we are going to produce an inferior health system. Mr Berry knows it is a nonsense. Indeed, I support Mr Humphries' view that, if you spell it out in that way, sooner or later somebody is going to argue that

some health service that the health board should be providing is not included in the definition and thereby they do not have the power to provide it. It is prescriptive, it is unreasonable, and by leaving those words out it leaves the health board to provide whatever health service is required - not only the ones that Mr Berry thinks are required. So I support Mr Humphries on this view. As far as I am concerned, Mr Berry's proposed addition to the Bill adds nothing; in fact, it detracts from it and he certainly will not get my support for it.

MR MOORE (11.13): Mr Speaker, it is very interesting that the Chief Minister should stand up and talk about misrepresentation with reference to a number of Mr Berry's interjections and then turn around and talk about me taking my bat and ball and going home. What an absolute nonsense! That is absolute misrepresentation on the part of the Chief Minister. What Mr Kaine is probably referring to is the fact that, on a day when I was on warning from you, Mr Speaker, I felt on two occasions that it would be most appropriate for me to leave the chamber rather than take the next stage which could well have put you in a position where you would have no choice but to name me. So the logical and rational thing, Mr Speaker, was for me not to take my bat and ball and go home at all, but for a very short while to take my coat and sit, as you will recall, in the gallery. Whilst some members may consider this Assembly home, I certainly do not, and never have. In fact, it takes me a little longer to go home.

But to bring us back to the notion of a prescriptive amendment being moved by Mr Berry, what absolute nonsense! That is the heart of this misrepresentation. What the Chief Minister was talking about in his speech was a method of marginalising the public health system in the same way that his Minister is attempting to marginalise the public education system, so that only those who cannot afford to go into the private system - - -

Mr Kaine: What does that mean? What does "marginalising" mean?

MR MOORE: The Chief Minister says "What does 'marginalise' mean?". Since he does not understand, I am quite happy to explain it to him - and no doubt, Chief Minister, you will be delighted to give me an extension of time if I require it. But, if you do not, there is another clause, another time. What they are attempting to do is marginalise the public health system in the same way that they are attempting to marginalise the public education system. What they do is make the public systems such that the only people who are left in the public system are those who cannot afford to use the private education and health systems. They are left to use the public ones - and they become inferior services. That is what this Liberal Alliance Government are interested in and that is why they are an anti-social justice Government.

We have a particular possibility here, a particular opportunity to ensure and to make clear that that does not happen. The most significant part of this amendment is that it provides a clear direction that that will not happen. I would have thought that I would hear some other members of the Alliance stand and talk about this. But I suggest that they probably have not even read the damn thing. It seems to me that there are a number of indications that the Residents Rally members, certainly, have not read the particular Bill and are just going holus-bolus along with what is there - but I shall get back to that when we deal with clause 17.

There is an opportunity here for the Alliance to improve their social justice image - or to start to gain a social justice image. The way they can do that is to support the amendment that Mr Berry has moved. The Chief Minister, who at least supports his Minister - and at least there is somebody in the ministry that supports the Health Minister - - -

Mr Wood: Reassuring.

MR MOORE: Very reassuring. But both of them are going to be away shortly, so we wonder what is likely to happen then. It would seem to me that we have an opportunity for the Alliance to make some attempt to take a broad approach to social justice issues instead of trying to deal with them in an ad hoc manner.

MR HUMPHRIES (Minister for Health, Education and the Arts) (11.18): I do not think there is much more to contribute to this debate, Mr Speaker, but I will say just a couple of short things about comments from Mr Berry and Mr Moore. Mr Berry continues to put forward the idea that there is some secret agenda in the Government's plans. I have to ask him what secret agenda was present in the New South Wales Government's plans when it made legislation in similar terms. But, as I said before, he obviously sees such provisions as being trustworthy in the hands of a Labor government but not trustworthy in the hands of another government.

Mr Berry put his finger right on the illogicality of his position a few minutes ago when he said that the New South Wales area health boards do not provide ambulance services, and that is why it was not in the legislation. The first point you might make about that is that there are other services that are under the aegis of area health boards; why were they not set out in the legislation? Mr Berry glossed over that particular point.

There are some services which are provided by New South Wales area health boards, things such as ambulances. But they can be provided by people other than area health boards, or in this case by the ACT Board of Health. That

is precisely the point. It is quite conceivable for other services to be provided by, for example, other government agencies. There is absolutely no reason for that not to occur.

Mr Berry: Here we go; a hidden agenda.

MR HUMPHRIES: And what hidden agenda could possibly be present in having a different government agency look after a particular service is beyond me.

For example, to go back to part (vii) of the amendment, I did not say that we could dispense with research and advisory services; I referred only to research services. Mr Berry obviously was not listening. But, if a school of medicine were established in the ACT, it is conceivable that all the research going on in our hospitals would in fact be a part of the school of medicine, which of course would be part of the university to which that school was attached, not part of the ACT Board of Health. That is a very good reason not to prescribe that the Board of Health should be conducting research - an excellent reason not to do that.

Finally, I will deal with Mr Moore's point about marginalisation. I think he was talking about marginalising private health insurers into somewhere else. He did say that in an interjection, I think, during the Chief Minister's remarks. Mr Moore does not seem to be concerned at the fact that people who can afford to be elsewhere and who can afford to pay for their own health needs - because they have paid for it already - are occupying beds and consuming resources in a system where those resources are scarce. He is not concerned about that.

He says, "Come one, come all. Come into the public hospital system. We do not care how much strain that puts on the system. We will just provide whatever is required to provide those services in that system". That is an unrealistic view. It is a stupid view. It cannot be sustained, and we, as responsible managers of that public health system, have to make sure that we emphasise the need to provide those services for people who cannot afford them, people who do need public hospital services. Those people are going to be serviced by the changes that this Government is making. He also said, apparently afterwards, that we are somehow marginalising the public hospital system. If there are 1,000 beds staying in the public hospital system, all I can say is that it must be a pretty big margin.

MR BERRY: Mr Speaker, under standing order 46, I think - - -

MR SPEAKER: Yes, under standing order 46, please proceed, Mr Berry.

MR BERRY: Thank you.

Mr Humphries: You have already spoken. What about at the **e**nd of the debate, Mr Speaker?

MR BERRY: I can do it any time, but the debate is over.

MR SPEAKER: Order! Under the circumstances, this debate might go on all night. I suspect that you might have to do it first thing - - -

Mr Kaine: That is right - and he can wait until the end, which would make everybody else happy.

Mr Stefaniak: Then he might forget, and it is probably not very important anyway.

Mr Kaine: We will probably have another dozen personal explanations by the time we get to that.

MR BERRY: We probably will.

MR SPEAKER: Order! Under standing order 47, a member who claims that his speech has been misinterpreted may speak again, so if you want to proceed under that - - -

MR BERRY: Either way. I am relaxed about that; that suits me.

MR SPEAKER: Please proceed.

MR BERRY: I am very relaxed about the whole issue; it is just that I want to clear up some claims of misinterpretation. It has been suggested that I might leave this until the end of the debate tonight. I think that by then the misinterpretations, misrepresentations, or however one likes to describe them, would fill a book, and I would prefer to deal with them as they come up. The claims from the Government, of course, would fill a book. The Chief Minister said that I was in some way misleading this place with my statements that the Government was moving to privatise public hospital services. He then turned around and said that the Government was, in fact, intending to privatise hospital services, when he explained to the Assembly that he was expanding the private hospital system by up to 10 per cent.

I do not know what interpretation the Chief Minister puts on "privatisation", but expanding the private hospital sector at the expense of the public hospital sector at a rate of - - -

Mr Jensen: I raise a point of order, Mr Speaker. My point of order is very simple. Mr Berry seems to be making a speech rather than getting on with explaining where he claims to have been misinterpreted or misrepresented, whatever the case may be.

MR SPEAKER: Please make it brief, Mr Berry.

MR BERRY: It is a complex issue, Mr Speaker. The misinterpretation, of course, is one that I suppose the Chief Minister might complain about because he, in fact, does not seem to be able to interpret what privatisation is about; it is about expanding the private sector at the expense of the public sector. In his own words, he admitted - though later denied - that he was expanding the private hospital system at the expense of the public hospital system and that rate, to use the Minister's own words, is "up to 10 per cent". So I have not misled when I said that the Government was moving to privatise hospital services.

MR SPEAKER: I believe that has explained your position, Mr Berry.

MR KAINE (Chief Minister): Mr Speaker, I will take advantage of standing order 47 too because, once again, what Mr Berry just attributed to me is not what I said. I did not say that we were allowing the private sector to increase at the expense of the public sector; I said the very opposite. You said that I had misrepresented you and you were using my explanation to prove that. You are quite wrong again because I made it quite clear that the Government's intention is to allow the private sector to increase to provide for the needs of those who can afford it and remove them from the public hospital system to make it available for those who do need it. I said nothing whatsoever about reducing or contracting the size of the public health system - another case of misrepresenting my words. That is exactly the point that I was trying to make, Mr Speaker; he has demonstrated it once again.

MR MOORE: I rise under standing order 47, Mr Speaker. It is a very brief one. I refer to the notion that Mr Humphries put on to me about marginalisation of the public health services. He suggested that I did not understand, with reference to what would happen with the privately insuring people going off to private health facilities and a drop in the value of the public health system. In fact, what happens is that the private health sector runs the most profitable section of the health system and therefore, if that profitable health system were part of the public health system, it would, in fact, assist in keeping the public health system cheaper.

Debate interrupted.

LEAVE OF ABSENCE TO MEMBER

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

That leave of absence for this sitting be given to Ms Maher.

HEALTH SERVICES BILL 1990
Detail Stage

Debate resumed.

Question put:
That the amendment (**Mr Berry's**) be agreed to.

The Assembly voted -

AYES, 6 *NOES, 10*

Mr Berry	Mr Collaery
Mr Connolly	Mr Duby
Ms Follett	Mr Humphries
Mrs Grassby	Mr Jensen
Mr Moore	Mr Kaine
Mr Wood	Dr Kinloch
	Mrs Nolan
	Mr Prowse
	Mr Stefaniak
	Mr Stevenson

Question so resolved in the negative.

Question put:
That the clause be agreed to.

The Assembly voted -

AYES, 10	*NOES, 6*
Mr Collaery	Mr Berry
Mr Duby	Mr Connolly
Mr Humphries	Ms Follett
Mr Jensen	Mrs Grassby
Mr Kaine	Mr Moore
Dr Kinloch	Mr Wood
Mrs Nolan	
Mr Prowse	
Mr Stefaniak	
Mr Stevenson	

Question so resolved in the affirmative.

Clauses 7 to 9, by leave, taken together, and agreed to.

Clause 10

MR BERRY (11.34): I move:

Page 6, after paragraph 10(1)(b), add the following new paragraph:

"(c) At least five members shall be chosen from peak community agencies, trade unions, non-Government service providers and consumer organisations. In any event at least half the Board membership shall be women.".

The issue that is before us now concerns the make-up of the board. That has very serious implications for the community and for the delivery of public hospital services. In the earlier debate in relation to the functions of the board we heard about the cuts to hospital services which are currently in place as a result of the policies on health of the Government opposite.

I think that can be clarified by pointing to the massive explosion of waiting lists for elective surgery in our hospitals. It is very interesting that the Government was very careful not to refer to the absence of waiting lists for private hospital services, and the absence of any ability in the private sector to fill already approved beds.

Mr Jensen: Relevance.

MR BERRY: Of course, Mr Jensen cries out in despair "Relevance". He cannot even make the important connection between having strong community representation on the board and the delivery of public hospital services to the community. I lament the absence of mind that Mr Jensen has on that subject but - - -

Mr Jensen: I accept your statement, Mr Berry, just to get it on the record.

MR BERRY: I thank Mr Jensen for his acceptance of my statement. What the Labor Opposition sets out to do is to remove our concerns at the lack of community involvement in one of the most important areas of human service. It is a big dollar area for the ACT budget as well. The community, of course, has a right to know about, and a right to be involved in, the delivery of public hospital services in the Territory, but what the Government is proposing in fact limits the involvement of the community. This is the Government that criticised the consultative model which was proposed by the Australian Labor Party when in government, when it set out to involve the community in a ministerial advisory process to develop policies for the then Government.

This Government, of course, has no interest in that consultative model and no interest in involving the community in the development of its policies. That has been clearly demonstrated in the way that it has dealt with schools and health policy in the past - in its decisions to close Royal Canberra Hospital and cut the public hospital services and privatise them, irrespective of what the Chief Minister says. He is trying to pretend that he is something he is not. The fact of the matter is that he supports this privatisation. There is no dodging that - as dodgy as the Chief Minister might be. For too long - - -

MR SPEAKER: Order! I would ask you to withdraw that, please, Mr Berry.

MR BERRY: I withdraw that - as much as the Chief Minister might like to mislead us.

MR SPEAKER: I do not believe that is appropriate.

Mr Kaine: What are you on about, you clown?

Mr Connolly: If the Chief Minister can say that he misleads, then he can say that the Chief Minister misleads.

MR SPEAKER: Order, Mr Connolly! You are not on your feet to speak.

Mr Collaery: Well, Mr - - -

MR SPEAKER: Order, Mr Collaery! The situation is, Mr Berry, that you are accusing the Chief Minister of misleading the Assembly. What I was talking about was misleading the public by statements outside the chamber, and that was my interpretation. So I would ask you to withdraw it.

MR BERRY: Okay, I withdraw that - as much as the Chief Minister might mislead the public.

Ms Follett: "No new taxes; read my lips."

MR BERRY: Yes, no new taxes. For too long in hospital services the focus has been on the health providers rather than the health consumers, and the Australian Labor Party has a fundamental commitment to those who need to avail themselves of proper and affordable health care. Our amendment is an attempt to redress that imbalance - an imbalance which is clearly set out in the proposals in the Government's Bill.

The Bill, of course, proposes at least seven and possibly 10 board members. Depending on the final figure adopted by the Government, the Opposition would be happy to negotiate the board's make-up. It is not good enough for the Liberals to have a board made up of the big end of town, if you like, many of whom might be the ones that could afford access to the privatised hospital system that the Chief Minister says is not happening; yet, of course, it is.

The Labor Party believes that the involvement and participation of representatives from peak community organisations and non-government service providers - of course, the biggest community organisation is the trade union movement - would be of enormous assistance to health consumers. At some stage in the near future we would also like to see positions available on the board for elected staff members.

Our party, of course, has a fundamental commitment to making positions available for women - something that is not evident in the party opposite. In fact, in some respects they could be described as anti-women. Of course, women make up over half of the health consumers and it seems to me most appropriate that they make up at least half of the decision making process in the hospital service delivery.

The provision of hospital services to women in the ACT is just not good enough. There is an imbalance and it needs to be addressed. Whilst we respect the Minister's efforts to consult with the Opposition on appointments in his portfolio, the fact of the matter is that that consultation never happens at the contemplative stage. It always involves the delivery of a fait accompli, and full information is not provided to the Opposition - - -

Mr Humphries: More than you provided to us when we were in opposition.

MR BERRY: It is not provided to the Opposition, irrespective of what the Minister claims. It is not effective consultation if one is not involved at the contemplative stage. It is just not good enough. The amendment that we have set out to include in the Bill before this house seeks to address both the imbalance between health providers and the top end of town and the community and the gender imbalance. What we have said is:

> At least five members shall be chosen from peak community agencies, trade unions -

we know that the trade unions represent about 50,000 constituents in the Territory -

> non-government service providers and consumer organisations.

We have also set out to prescribe:

> In any event at least half of the Board membership shall be women.

That, to seems quite appropriate in the circumstances because of the - - -

Mr Humphries: Who was on your board?

MR BERRY: Mr Humphries asks: "Who was on our board?". He seems to have had a lapse in memory. He might recall that the events of December prevented us from implementing the consultative model which, of course, we had set out to do.

Mr Humphries: "Time beat us; time beat us." What party appointed the original board members?

MR BERRY: And Mr Humphries asks why we did not appoint the original board members. It is just as well we did not appoint the original board members, or he would have sacked them, as he did in the end anyway. So those are the facts. The fact of the matter is that we had made up our mind that that board process was inadequate and it was going to be replaced by a consultative model which would have involved a strong contingent of women, in accordance with Labor policy direction. We are not like the party opposite. They are an anti-women party and an anti-social justice party, as has been demonstrated so far in this debate on the Health Services Bill.

MR HUMPHRIES (Minister for Health, Education and the Arts) (11.44): Mr Speaker, we on this side of the chamber will not support this amendment either. It is another attempt by the Opposition to make some point in a vague and inconclusive fashion without really making a point at all. They do not seem to have the conviction to actually sit down and name the people or the categories of people they think should be on the board. But they want to have some vague acknowledgment of their former policy of having people from particular interest groups entrenched on the board.

I might indicate that there is a fundamental difference of philosophy in this matter, and the difference is that this Government believes that the board should represent the broad community. It should not be a series of individuals beholden to particular interest groups. It should not be a series of individuals whose position on the board depends on their membership of some other organisation. That is not the way in which we view this board. That makes members in those situations become dependent on the organisation to whom they owe their membership. In other words, their views are the views of that body. Their loyalty is to that body. They serve that body first of all, rather than the broad community of Canberra as health consumers, and that is not the philosophy of this Government.

This Government has not prescribed anybody who should sit on the board, with the exception, of course, of the chief executive of the public hospital system. That is appropriate. Those opposite say that we should have organisations represented - interest groups, pressure groups, vested interests - and I say no, that is not appropriate. I say that the better system is to provide, as the Government has done, for the best people for the job to be chosen, and that, I think, is the best basis on which to provide for the vast majority of situations.

Mr Berry made some snide remarks about consultation on government appointments. I might remind Mr Berry that the consultation I have provided to him is considerably in excess of any consultation he provided to me or anybody else on this side of the house when he was in government, and it is very rich to see him now coming up and criticising the particular flaws in the structure of consultation provided by me. The Government does not consult merely after the contemplative stage has finished. I am always prepared to receive suggestions from those opposite about names and I have always seriously considered any suggestions that have come forward. Not many have come, in fact, from Mr Berry, to my recollection. In fact, I cannot recall any, particularly for this particular board.

If the Opposition is really serious about providing for at least half the membership of the board to be women, why has it not done so before? Why did it not do so in any legislation it brought forward when in government? Why has it not done so in an amendment to any legislation that this Government has brought forward to this house from time to time? Only, I think, a few days ago we considered, as I recall, a Bill to amend the composition of the board of ACTEW. There was no suggestion then that half the board members should be women. It would be a very easy amendment to have done at that stage. Why was it not done then? Mr Berry shuffles his papers, but the fact is that there have been many opportunities - - -

Mr Kaine: He is shuffling his feet too.

MR HUMPHRIES: He shuffles his facts as well. But why has he not taken the opportunity before? Has it only just occurred to the Labor Party that half of the ACT is made up of women? I doubt it. I think Mr Berry has decided that this is the issue on which he wants to make some cheap political point, as usual.

I think, for all those reasons, this house is entirely entitled to reject Mr Berry's suggestion. Mr Berry is quite entitled to make the point, if he wishes to, in future when we have the misfortune to have a Labor government inflicted on us. He is entitled to appoint 50 per cent women if he wants to. But I might remind Mr Berry and those opposite that prescribing a particular percentage of women would also be inconsistent with the admirable anti-discrimination legislation which Mr Collaery has tabled in this place. Mr Berry might be very happy to bust anti-discrimination legislation with gay abandon, but the fact is that we take that very seriously. We do not see the value in providing that kind of thing, and we do see it as important to choose people who are appropriate and good for the job. There are women on the present board; we are very happy about those appointments. I suggest that Mr Berry consider whether his amendment is really sensible in the first place.

MR MOORE (11.49): Mr Speaker, with reference to the make-up of the board, whilst I do not support Mr Berry's amendment, I will take the opportunity to make a couple of comments about the board. I go back to the Residents Rally policy, which says:

> The most important aim of a Residents Rally Government will be to expand the community care program.

It seems to me that in the make-up of the board that has not been taken into account. Mr Humphries commented on consultation on the board. It is, of course, more widespread than Mr Berry's consultation - I accept that - but at the same time I think it is reasonable to say that, if consultation is to be effective, then at some stage or other people who are consulted would like to see some result of that consultation. In fact I approached Mr Humphries on the make-up of the school board and he very rapidly made time to talk to me, which I appreciate, and I must say that I was particularly disappointed that none of the three suggestions I made was actually implemented. I am sure he did take account of them, but they were not implemented by him.

Mr Humphries: They will be in future.

MR MOORE: But I notice that there is room for some expansion - I think that is correct, as my memory serves me - with the people and the numbers, and I would appreciate that. I certainly appreciate Mr Humphries' interjection that they will be in the future. But, as I say, I do not support the amendment by Mr Berry.

MR BERRY (11.51): It is a matter of some disappointment that Mr Moore does not support the amendment that has been put up by the Australian Labor Party. He did not explain the reasons for that. I suspect that it would not be because he was opposed to peak community agencies, trade unions, non-government service providers and consumer organisations being involved in the board. I would hope that his opposition does not arise because of the board membership proposal of the Australian Labor Party.

But it is a matter of some concern to me that the Government is so strongly opposed to what we have set out to do. Mr Humphries complained that the Australian Labor Party had not done anything in relation to this matter in legislation that it proposed. Of course, the Australian Labor Party did not propose any legislation for a health board. It had another course which it sought to follow in relation to public hospitals in the ACT.

The Chief Minister, who has left the house, of course, talked about the gold plated Taj Mahal that I would have provided in hospital services. From an ideological point of view, I would have no problems of conscience about providing a gold plated Taj Mahal hospital system for the people in the ACT including - - -

Mr Humphries: Mr Speaker, I raise a point of order. The comments by the Chief Minister were made in the debate on the previous amendment, not on this amendment at all. That is a reference to a previous debate, in effect. I think Mr Berry should confine his remarks to comments being made in this debate.

MR SPEAKER: I think that is a long bow, Mr Humphries. Please get to your point, Mr Berry.

MR BERRY: The relevance, Mr Speaker, is that any gold plated Taj Mahal that I would provide, without any problems of conscience, would be targeted at delivering services to all of the people of the ACT. It would not be a service such as that planned by this Government to provide services only to the bottom end, while the people who manage the delivery of those services to the bottom end of town are from the top end. It strikes me that there is something of a conflict there. The people who are going to be receiving the services in our hospital system are not involved in the process. This Government seeks to draw the line between those that have and those that have not, because it - - -

Mr Humphries: On a point of order, Mr Speaker: I emphasise my point from before. We are talking about the composition of the board. Mr Berry is talking about class and providing services to the non-government sector. It is not relevant to this debate.

MR SPEAKER: I overrule you on that one, Mr Humphries. I believe it is. Please proceed, Mr Berry.

MR BERRY: It is very clearly on target, Mr Speaker, and I am very surprised and deeply disappointed that Mr Humphries does not understand it, given that he is Minister for one of the most important portfolios in social justice terms in the ACT. How can a Minister say that class distinction in the delivery of hospital services is not relevant? It is entirely relevant because, as I have said in the debate previously on this very matter of the make-up of the health board, Mr Humphries proposes that the board will be run by the top end of the town and those at the bottom end of the town will not have any involvement. What the Government has set out to do is to resist attempts by the Australian Labor Party to involve in the delivery of hospital services, firstly, the biggest community organisation in Australia - the trade union movement, which, as I said earlier, represents around 50,000 people in the Australian Capital Territory - and also non-government service providers and consumer organisations. I have also said that there would be elected employee representation on the board.

What the Labor Party is about is ensuring that the hospital service delivers services to both the top and the bottom end of town. The Labor Party is about ensuring that the ordinary worker in the street receives as good a service as would be received by those with money who are able to afford the expensive private hospital services that this Government plans. This Government, of course, seeks not to expand the involvement in the board to include those people. What the Labor Party sets out to do, of course, is to ensure that women have an equal involvement in the management of the hospital services by virtue of the fact that they make up at least half of the community and, of course, they are the ones that use the hospital services most.

Mr Humphries cannot walk away from the fact that this Government is denying those people an involvement in the process of managing the hospital system and implementing the functions which the board has the power to implement - irrespective, of course, of the Minister's right under the legislation to direct the board to act in accordance with his wishes, and philosophical commitment, I suspect. But Mr Humphries does not seem to understand that the management of our hospital system is a philosophical issue. It is something that he should squirm about because, as I have pointed out and will continue to point out, even though it makes the Chief Minister uncomfortable, this is a Government of privatisation; it is a Government that is about looking after the top end of town. It has demonstrated that. It is supported by other political parties - the Residents Rally party, to name one - in its quest. It denies social justice, and it will continue to do so.

The Labor Party while ever it draws breath will continue to focus attention on the mismanagement which is inherent in the administration, and we will also while ever we draw breath make it clear to the community that the Government is attempting to mislead it - and will continue to do so. This Minister has made misleading statements that mislead the community. The Chief Minister has done it, and we will continue to focus attention on that.

What this Bill represents is a major change in direction in the delivery of hospital services in the Territory. The fact of the matter is that the Bill, of course, seeks to ensure that the Minister will have the right to further privatise hospital services; he will be able to direct the board to take certain actions in accordance with his philosophical position. But what is most important about the Government's position on this issue is that it now seeks to exclude very important sectors of the community from involvement in the delivery of those services. I suspect that they do that because they are concerned that it would increase the awareness in the community of what they are on about philosophically. It certainly has not fazed the Residents Rally party.

Ms Follett: They are the Government.

MR BERRY: They seem entirely comfortable with the Government's philosophical position. There are claims that they are the Government. One finds it a little difficult to work out which end of the dog the tail is on, but that is not surprising when one considers the members opposite.

This is an important amendment that has been proposed by the Australian Labor Party. It should be supported by the Government; it is a great disappointment that it will not be.

MR MOORE (12.01): Mr Speaker, Mr Berry has invited me to explain why it is that I will not be supporting this amendment, and I think it appropriate that I take just a couple of minutes to do so. Philosophically, I do believe that, in fact, it would be a far better way to go. But, we have had a problem with health administration, health advice, health boards and hospital boards over the last two years and, in a practical sense, to now introduce a system which would demand rearranging, yet again, any health board or hospital board would, I think, be entirely inappropriate.

So at this stage I make it clear to Mr Berry that if, when he becomes Minister for Health - if that is what happens - he wishes to make this amendment, then I will be quite happy to support it, because philosophically I support the notion of having the broad community better represented rather than having the risk of people being appointed to the board as "yes" people or people with a particular interest that happens to suit that of the Minister. I say that, being careful, at this stage, to clarify that in no way do I mean that to point to this particular Minister, or to the individuals appointed. I want to make that quite clear; that is not what I am saying. However, for practical reasons, I find it difficult, at this stage, to support the amendment put by Mr Berry even though I believe that, in fact, it is a good amendment.

I would also like to comment on the notion of not knowing exactly where the dog has its tail. It seems to me that, when you have seen a dog chasing its own tail and running around in circles, the image is far more appropriate for this Alliance Government.

MR HUMPHRIES (Minister for Health, Education and the Arts) (12.03): Mr Speaker, Mr Berry did twist slightly one of the points I made in my remarks. He said that the Opposition, when they were in government, did not have the chance to appoint a half-women board of health or hospitals board, or something of that kind, and that is quite true. But the point I made was that Mr Berry had plenty of other opportunities to appoint half-women membership on other boards created by the Labor Government, and he took no opportunity to do that. He had many such opportunities; he

ignored them, because he apparently did not feel it was appropriate to appoint half-women membership to any of the boards that he had to establish.

I think it is worth asking: Why is the Board of Health different from any of the other boards the Government appoints? Why is it different from the occupational health and safety committees? Why is it different from the bush fire councils? Why is it different from any of the other many bodies that governments appoint members to? I do not understand that, and Mr Berry has not explained why he should bring it forward now and not elsewhere.

Question put:

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

The Assembly voted -

AYES, 5	*NOES, 10*
Mr Berry	Mr Collaery
Mr Connolly	Mr Duby
Ms Follett	Mr Humphries
Mrs Grassby	Mr Jensen
Mr Wood	Mr Kaine
	Dr Kinloch
	Mr Moore
	Mrs Nolan
	Mr Prowse
	Mr Stefaniak

Question so resolved in the negative.

Question put:

That the clause be agreed to.

The Assembly voted -

AYES, 10	*NOES, 5*
Mr Collaery	Mr Berry
Mr Duby	Mr Connolly
Mr Humphries	Ms Follett
Mr Jensen	Mrs Grassby
Mr Kaine	Mr Wood
Dr Kinloch	
Mr Moore	
Mrs Nolan	
Mr Prowse	
Mr Stefaniak	

Question so resolved in the affirmative.

Clauses 11 to 16, by leave, taken together, and agreed to.

Clause 17

MR MOORE (12.15): Mr Speaker, there are a couple of propositions circulated in my name that perhaps ought to be dealt with together to save wasting time. The first is to delete clause 17 and the second is to delete subclause 18(2). The reason for the second proposition is that it is just a logical follow-on from clause 17, and I would encourage members to speak to the two at once, even if we actually deal with the votes afterwards.

The Residents Rally policy, on which I went to an election and by which I still stick, makes it quite clear that it is inappropriate for members elected on that platform to support such a clause. It states categorically, "Membership of the Board will be honorary". In fact, I think the Residents Rally is the only party that went to the electorate with a board of health platform, which I mentioned earlier in my in-principle speech, and I believe that it is appropriate, therefore, to implement this. In respect of providing remuneration in such circumstances, it seems to me that our money ought be spent in the very best possible spot with reference to health, particularly when we are facing a recession. The whole notion of the Board of Health, as Mr Humphries has put it, is to find a better way to spend our money. And I think the best way of spending the money on health is not to spend it on those who are on the health board. It is quite clear that there are enough people in this community who are generous enough to give their time and their expertise to serve on this board.

I now draw attention to subclause 18(1), which would still remain in, which would provide for reimbursement of any expenses actually incurred by a member of the board. Of course, it is most important to make sure that that is the case. I do not think we, as a community, could ask people to actually meet expenses incurred through this sort of situation. However, quite clearly there are enough people who are prepared to go on the board and contribute to the community. Of course, these people are satisfied, and have been for many years on similar boards, to give their time and to make a contribution to the community in this way, and I think it is appropriate that they continue to do so.

This proposition would, of course, also resolve another expense, and that is the time of the Remuneration Tribunal to look at the situation and to come up with an appropriate determination on funding. It also seems to me that there is a risk that there will be some people - and I do not refer to anybody who is currently nominated for the board - who could become more interested in ensuring that the Remuneration Tribunal provides what they consider appropriate, or more funding for them, rather than getting on with the task that needs to be done. It is quite clear to me that it is not necessary to provide remuneration or

an allowance in this case and it ought to be the case that we have an honorary board. Members of that honorary board, however, should be entitled to be reimbursed for any expenses they have actually incurred.

I certainly would call on Government members and members of the Opposition to support the notion that this clause is entirely unnecessary. I know that the legislation has been drawn up quickly and that the board was appointed first. Because of that I have conceded and voted with the Government on the last amendment put by Mr Berry, albeit only from a practical point of view. However, in this particular perspective I think it is appropriate that we remove clause 17 and subclause 18(2), which is a consequential effect of removing clause 17.

MR SPEAKER: Before we proceed, is it the wish of the Assembly to debate these two clauses concurrently? That being the case, we are now addressing both of those clauses.

DR KINLOCH (12.21): Mr Speaker, I have much sympathy with Mr Moore's point of view. I would like to say, however, that I find this a problem in another connection. There is an Arts Development Board and none of the members of that board receive remuneration. As a result of that, one member of that board, Sara Dowse, is finding it impossible to continue as a member of the board.

I am worried about this, and I hope that we will all be looking at ways in which we can help the Arts Development Board receive remuneration for its members - people obviously such as writers, sculptors and artists, whose income is minimal - so that they can take part in discussions of the ADB. It would be unfortunate if the ADB could be made up only of people who could support their membership by their own incomes.

MR HUMPHRIES (Minister for Health, Education and the Arts) (12.22): Mr Speaker, I might indicate that Mr Moore's dulcet tones have utterly convinced us on this side of the chamber and we will be agreeing to this amendment. I might point out that, as the original clauses stood, they did not actually require that we pay members any money but did provide that we have the option of doing so. In fact, members of the Interim Hospitals Board were not paid; members of the present ACT Board of Health are not to be paid. But I can accept Mr Moore's comments. I can assure him that the fact that it is there is not a reflection on the speed with which the thing was drafted. But I am quite happy to take it out, now that he raises that point.

MR COLLAERY (Attorney-General) (12.23): Mr Speaker, I rise briefly to endorse the comments of my colleague Mr Humphries and to welcome them. I also rise, personally, to very much welcome the establishment of a board of health with these objectives and priorities. This is a prospect that Canberra looks forward to under self-government. It is a notable development in the provision of health services and it in no way, as Mr Berry suggests, derogates from the emphasis this Government puts upon community related health care and all of the ancillary issues that go with that.

There has been comment during the debate this morning - while many of us, Ministers at least, have other things to do - suggesting that the Rally has somehow run away or departed from its policy. Here is a foursquare policy implementation. I am very pleased for Mr Moore, who authored it, if I recollect correctly, in those more pleasant days, one can say. Clearly it is a time also for all of us to acknowledge the enormous amount of work, as my colleague Dr Kinloch was impliedly saying, that is done on an honorary basis by various Canberrans or people in our region to deliver services, in both the government and non-government sectors.

The board is going to do well for the people of the ACT. It will not, I suggest, be long before its delivery of services will be recognised across the spectrum, and it will not have to put up with the prickly views of Mr Berry. He will continue through the rest of the life of this Assembly attacking the board for what it is perceived to be doing or not doing.

It is timely to remind Mr Berry that, for better or worse, he is on the other side of the house and it would be far better for the community if he let the board get on with its job. He may have the luck to get back up into office - although I doubt that that will be the case in the short term - but in the meantime he and his party should let the board get on with its very important work.

MR BERRY (12.26): Mr Speaker, this would have to be one of the most stupid decisions made today, because here is a government - - -

Mr Duby: Here is a government that will not do anything you approve of.

MR BERRY: Of course I am prickly about it, because it is top end of town stuff again. What the Government is about is ensuring that only people who can afford to go on boards will go on them. What about ordinary people who cannot afford to put aside the time to attend on boards? What about small business men and women who might want to attend on boards? What about them, Mr Collaery? You are the person who is supposed to support small business people around this town. The Liberal Party says that it supports them, but the evidence of its actions in recent times would suggest that it does not.

The fact of the matter is that members of the community who put in time on boards of management for government enterprises are entitled to be paid for their lost time. This is a most stupid attitude of the Government. I have to say that I am absolutely surprised that Mr Moore would put this forward, although I understand that he does so on the basis that it is Residents Rally policy. It is very interesting that Residents Rally policy - top end of the town policy, I might add - has just swung the Government around on the floor of the house.

This is one of the few times the Residents Rally is sticking to its policies; but it is most interesting that it is supporting the top end of the town, not the community that the Residents Rally claims that it emerged from. It is not a community party at all. Mr Collaery does not care about the community; he never has, and that is why they do not support ordinary people in the street getting paid for any lost time that they might put into these boards. The fact of the matter is that, by not paying for representation on these boards, you encourage only people at the top end of the town who can afford to do it for nothing. You will not be able to encourage ordinary working people, who might lose time to attend on these boards, to make a contribution to it.

It is an outrageous position for the Government to adopt and it is just another example of policy making on the run. The Government had been advised to include these provisions within the legislation. It was appropriate. Even though the Labor Party opposes the general thrust of the legislation, if there is to be a board, it ought to be a board that can be paid in accordance with the legislation. It is stupid, absolutely stupid, to suggest that people should perform an important function in accordance with a government's policy and not be given appropriate remuneration for the work that they provide for the community. It rules out involvement of community members at the lower end of the socioeconomic scale.

Mr Collaery: Oh, nonsense!

MR BERRY: Well, you tell me how they are going to feed themselves, Bernard Collaery. I do not think you care. You have never cared. You have never cared about the community. All you have ever cared about is yourself, and that is what you are doing in this case - looking after yourself. You were trumped today; you were found out. Michael Moore worked a swifty on you, and it worked. He got you to turn the Government's policy around on the floor of this house - another knee jerk. You did not even think about it. You thought, "Hello, Michael is going to catch me out on Residents Rally policy again. We will have to turn them around here", and of course you turned them around but made another big mistake.

Residents Rally policy, Mr Collaery, was wrong on this issue and it will be proven to be so. The Government will regret removing this provision in the legislation. Not only will it make the attendance on the board unattractive to the top end of the town, but also it will make it impossible for people on the lower end of the socioeconomic scale to participate.

One wonders whether this will now be the general policy the Government will adopt across the board - the sort of policy which Dr Hector Kinloch complains about in respect of the arts board. It seemed to me at one stage, just for a moment there, that Dr Kinloch was going to support the Government's Bill. But I see that Mrs Nolan is doing her job well; she has whipped him into shape. I am sure now that Government members will appreciate the role that Mrs Nolan plays. After all, last week when she went away they fell into disarray because they have not paid enough attention to training and development, and Mr Jensen missed out.

The fact of the matter is that this proposition, as I have said, is stupid, because it ensures that there will be no interest from ordinary community members in participation on the Board of Health - a board which will dictate in many ways the future of hospital services in the Territory; a board which will dictate the implementation of the philosophical position of the conservative Government opposite, a philosophical position which guarantees that there will be fewer public hospital services available to the ordinary person in the street; a board that will have to suffer the transfer of public hospital services to the private sector; and a board that will have to suffer the loss of other services which have previously been provided by other boards of health.

The fact of the matter is that this Government has ensured that the community will not be fairly represented on its Board of Health. But the most interesting part about it was the little game that Michael Moore played to trap Bernard Collaery. I must say that I am not surprised that Michael Moore left the Residents Rally when they have policies like that. But he has trapped his former colleague Mr Collaery, and Mr Collaery has rushed around and whipped the Government up and had them agree that there should be no remuneration and allowances for board members - a stupid decision, a stupid policy born out of stupid circumstances.

The Residents Rally seeks to represent the middle classes in this town, who it thinks would be able to afford to give their services and time free to the delivery of important services to the community and the Territory. Nobody should be asked to do that. They should not be asked to give up their own resources in the public interest.

Mr Stefaniak: Why not? Whatever happened to community-mindedness?

MR BERRY: The only people that the Liberal Party represent are those people who would be able to afford to give up their time because they have plenty anyway, but the fact of the matter is that there are ordinary people out there who could make a major contribution to the delivery of public services in the Australian Capital Territory who will be prevented from doing so because they cannot afford to give their time free.

Mr Stefaniak: Oh, rubbish! They are not being prevented.

MR BERRY: I hear cries of "Rubbish" from Mr Big Bill Stefaniak. He does not seem to even understand that there are some people who do not have enough money to feed themselves in this town, let alone give up their time and wages to participate in boards of this nature. It is a stupid decision. It is born out of stupid circumstances and I must say that the Government will be remembered for its stupidity in relation to this matter.

MR COLLAERY (Attorney-General) (12.34): I think Mr Berry deserves a response. I note that he has worn his more threadbare suit today, not his double-breasted suit.

Ms Follett: On a point of order, Mr Speaker**:** Mr Collaery has made a habit of making personal remarks about the appearance of any number of my members, but especially Mr Berry. If you read your green book, which is on your desk, Mr Collaery, you will see that that is totally unparliamentary.

Mr Collaery: Mr Speaker, I had not finished. It is a literary allusion and anyone who is well read would understand where it comes from. I submit to you, Mr Speaker, that it would be absolutely absurd if we allow these doctrinaires to dominate our language.

Mr Berry: What are you talking about?

Mr Collaery: I am referring to a debate about the poor and I am using an allusion, and I do not see at all, Mr Speaker, why I should have to withdraw or respond to that fatuous comment by the Leader of the Opposition.

MR SPEAKER: Under the explanation given by Mr Collaery I do not uphold your objection there, Ms Follett.

Mr Moore: Bernard, it was the wrong person.

Mr Collaery: I am sorry; it was Mr Moore with the holes in his suit.

MR SPEAKER: Order!

Ms Follett: Mr Speaker, his intention was quite clear. He has made constant reference to Mr Berry's height, and to Mr Moore's appearance. His intention in that comment by him was absolutely clear.

MR SPEAKER: I understood that Mr Collaery was referring to Mr Berry's background in the people that he represents, and I took that as perhaps an abject compliment. Please proceed, Mr Collaery.

MR COLLAERY: The arguments put forward by Mr Berry are well debated ones in this town. The Canberra community has one of the largest non-government sector groupings per capita in this country, so far as I can determine from talking to welfare Minister colleagues. There is an enormous community involvement, and if you strung out the numbers of voluntary committees and honorary boards in this city they would stretch out through the doors of this chamber.

What we are talking about is a question of precedent, issues relating to renumerating or paying honorary boards - - -

Members interjected.

MR COLLAERY: I am so disturbed that I cannot even pronounce it, Mr Speaker. I note that none of my colleagues jumped up to defend that gross insult about the poverty of my expression, so we are not so sensitive on this side of the house, Mr Speaker.

Mr Berry said that it was a stupid decision. No policies are immutable, I remind Mr Moore. The question of having a full and proper policy on these issues is one for a well known tribunal, and it is also one for the community to consider in a context of access and equity. Mr Berry is shot down in flames on this one. He set up a home and community care advisory committee when he was Minister. I do not know whether he ever got to meet them, but I certainly did, and there were appointed to that committee - and quite properly so - people with disabilities. No provision was made by our former Minister opposite here for any payments for them. In fact, it is simple gross hypocrisy. The first thing that occurred to me when I met this committee was the difficulty they must have encountered in coming into the city to meet with me. The question Mr Berry poses should perhaps be in our minds when and if we conduct a full-scale review of these issues. This is not going to be a situation where we will make a one-off decision.

Mr Moore, presumably, has spoken to Mr Humphries. Suggestions that the Rally has had some kill on this issue are absurd. This has been handled entirely, to my knowledge, between Mr Humphries and Mr Moore. There has been no joint party room issue about this matter and there is no inter-party nonsense going on. The record clearly shows that, when and if we get to this issue and look at the whole precedential aspect of paying these honorary boards, Dr Kinloch may well express the view that we should pay them and that there are arguments for that based both

on access and equity and on excellence. So be it; but at this stage it is the view of the Minister responsible that he should accept the proposition put by Mr Moore, and we on this side of the house agree.

MR MOORE (12.40): Mr Speaker, I am delighted that my proposition has been accepted by the Government. I am particularly delighted because what Mr Berry calls a stupid policy was, in fact, drafted originally by me, and, in fact, I am quite proud of it. What surprises me is the hypocrisy of Mr Berry to stand up there like that and get stuck into this notion of an honorary health board when, in fact, the policy of the Labor Party is not to have boards at all but to have advisory committees - and no-one has ever suggested that there should be any remuneration for those advisory committees.

So what we get from the Labor Party here is gross hypocrisy. It is just a case of using the opportunity to get stuck into the Government when they happen to have made a reasonable decision. There is a difference in approach between the Labor Party and the Rally, of course, and the Alliance, on whether or not we should have boards, and I accept that. However, at no stage has the alternative proposal that Labor has put suggested that there ought be remuneration. If they had in their time provided remuneration for any of their advisory committees, they would have a leg to stand on; but, in fact, they have none.

What we heard from Mr Berry was an emotive speech. He repeated the word "stupidity" again and again, and the only thing the word applies to is the Labor Party itself when it was in government. A sensible decision has been taken by the Alliance, and they are not going to set a precedent of providing remuneration for board members. We heard Dr Kinloch stand up a little while ago and basically imply that he would like to see remuneration provided to another body. Where would it stop after that? That is the question. Before we know it, we will be in a position where everybody in the community feels that if they are going to offer some community service they should line up in order to hook into a little bit of remuneration - and that is the wrong motivation.

What we have at the moment, and what is delightful about Canberra, is hundreds and hundreds of people who are prepared to give their time and make a contribution to the community. That is to be welcomed and they are to be honoured for that. My proposition leaves in subclause 18(1), which provides for out-of-pocket expenses, and I think the particular case that Dr Kinloch draws attention to reaffirms why it is necessary that that clause be there. So, to have the sort of statement made by Mr Berry is totally inappropriate.

Moving to Mr Collaery, whilst I did discuss the health board on a number of occasions with Mr Humphries, last night I went across the chamber and I showed Mr Collaery the Residents Rally policy - which he was unaware of. So, he is another one sitting there and, of course - - -

Mr Jensen: So were you initially.

MR MOORE: Mr Jensen interjects, "So were you unaware of it". Of course I was not unaware of it, Mr Jensen; I wrote it, for heaven's sake.

Mr Collaery: You told me that you had forgotten it, Michael.

MR MOORE: Certainly not. I will clarify for Mr Jensen what came out of the discussion. Whenever a matter arises I go back and check the policy, and I did not recall off the top of my head, before I went back to check it because we are dealing with that situation, that that was the policy. But at an appropriate time I did go back and check the policy, and you would do well to do the same. It is probably irrelevant to you. There is no point in suggesting it anyway, because it is difficult for many here to know what he is on about.

I think that it is most appropriate that the Alliance Government has adopted this. I hope that they will adopt it as a general philosophy on boards but will, at the same time, take account of the important part of what Mr Berry was really dealing with, and that is that we need to ensure that boards have adequate representation from across the broad spectrum of our community. I think that that is the philosophical position that ought to be taken, and the people appointed to boards - I do not refer here to the hospital board in particular - ought not to be political party hacks, something which we have seen happen over the last few years. I think that is something to be avoided.

There are many people in the community without strong political affiliations to parties and without political agendas who could well be appointed to boards. There are plenty of these people with genuine motivation who are prepared to contribute to our community to make it a better place in which to live.

Clause negatived.

Clause 18

Amendment (by **Mr Moore**) agreed to:

> Page 8, line 38 and page 9, line 2, subclause 18(2), omit the subclause.

Clause, as amended, agreed to.

Clauses 19 and 20, by leave, taken together, and agreed to.

Clause 21

Debate (on motion by **Mrs Nolan**) adjourned.

Sitting suspended from 12.47 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Alliance Government

MS FOLLETT: My question is to the Chief Minister, Mr Kaine. Is the Chief Minister still unaware of the public differences of opinion between Mr Humphries and Mr Collaery, which have continued since question time yesterday?

MR KAINE: Mr Speaker, as I said yesterday, I am aware of some speculation in the news media which probably grossly exaggerates the situation. As I also said yesterday, of course there are differences of view within the Government. It is only natural that there would be. I repeat that I believe that the fact that there are differences of view between members of the Government and that we can resolve those matters is one of the strengths of this Government. It is not a weakness, as the Opposition would like to present it, and I do not think I have anything further to add.

MS FOLLETT: I have a supplementary question, Mr Speaker, on the same subject. When will Mr Kaine show some leadership and assert his authority to stop his deputy and his Liberal ministerial colleague from conducting a public brawl?

MR KAINE: I do not believe that they are conducting a public brawl, Mr Speaker, and I believe that I exert all of the leadership that is required. I do not accept the implied rebuke from the Leader of the Opposition, who would not know what leadership is if she fell over it.

X-Rated Videos - Advertisements

MR STEVENSON: My question is to the Attorney-General. Is the Attorney-General aware that the *Australasian Post* magazine, which in the past has been a major supporter of violence-causing X-rated pornographic videos throughout Australia, has decided no longer to accept 12 to 30 pages of X-rated video ads each week? In the current issue of 22 December they have just a friendly picture of Santa Claus on the front. They will no longer accept money or loot from lust, as it has been so well put. A "no" will do.

MR COLLAERY: What was the question again? The answer is yes.

Mr Stevenson: Are you aware of it?

MR COLLAERY: No, the answer is no.

MR STEVENSON: I ask a supplementary question. Would the Attorney-General be encouraged by such a public-spirited action to reconsider his view that X-rated videos should not be banned in the ACT? If the Attorney-General would like a short answer, "yes" would be more than acceptable to the people of Canberra.

MR COLLAERY: Thank you, Mr Stevenson. I do not read the *Australasian Post* magazine; so I cannot comment on the accuracy or otherwise of what Mr Stevenson said. The issue of X-rated videos is one that the Government is constantly reminded of, thanks to concerted action by at least one member of this chamber. It is never far from my mind, Mr Speaker. So, clearly, that issue is one that the Government, at least in the guise of its Attorney, is aware of.

As to whether I am going to move to ban them, the short answer is no. My view - and this is a personal view on this side of the house - is that the Commonwealth Government, through its Chief Censor, whom we beat the other day in Sydney on a censorship issue, over the T-shirted article, is failing to provide us with a separate category in the X classification. If we could have another X category to get rid of some of the really disgusting porn that many of us, particularly feminists, object to very strongly, I would agree, personally, and if we could get a second category in the R category - an issue on which I believe there is bipartisan support in this chamber - I would agree to that too. I suggest to Mr Stevenson that he take his caravan up the hill; that he go up there with Mr Fred Nile and the rest, and convince the Federal Government that it should give us the new classifications. Then this Government may well act.

Athllon Drive

MR JENSEN: My question is directed to the Minister for Finance and Urban Services. I draw the Minister's attention to an article in the Tuggeranong *Valley View* of 4 December about proposed improvements to Athllon Drive. Would the Minister care to comment on suggestions in the article that the needs of Tuggeranong commuters are not being taken into consideration in plans to upgrade Athllon Drive?

MR DUBY: I thank Mr Jensen for the question. Yes, Mr Jensen, I am aware of the article which is titled "Valley residents ignored over road". I want to take this opportunity to refute the allegations in the *Valley View* and to assure Tuggeranong Valley residents that they are not being ignored. On the contrary, those valley residents who in the past have been ignored, namely, the bus travelling public, are being very much brought to the fore. It is worth noting that Tuggeranong residents are increasingly catching buses, and who would argue that that is not a very pleasing trend? The improvements to Athllon Drive will cut several minutes off bus travel times, thereby increasing the attractiveness of bus travel, and will reduce ACTION's operating costs. All over Australia public transport is being given priority, for a range of environmental, social and economic reasons. Furthermore, these improvements will enhance traffic and pedestrian safety and will reduce delays at intersections.

What the article fails to mention is that many millions of dollars have been spent on car commuters in Tuggeranong, on both the Tuggeranong Parkway and the Eastern Parkway. Another $11m is being spent on the Eastern Parkway in the next 12 months. In addition, Long Gully Road is being upgraded to improve access to the Eastern Parkway for northern Tuggeranong residents. Bus travellers are often forgotten by transport planners and policy makers. These commuters rarely act as a pressure group for their own interests. In this case, however, they have not been forgotten. Internationally, urban transport initiatives are revolving around public transport to protect the residential amenity of urban areas.

Mr Berry: Come on. You are finished, are you? Good.

MR DUBY: I am still answering this question, Mr Berry. Mr Speaker, the Athllon Drive proposal makes sense for all Tuggeranong residents, now and in the future, and is something that should be heartily endorsed.

Ministerial Arrangements

MR CONNOLLY: My question is to the Chief Minister. Will the Chief Minister follow the practice in all other Australian legislatures by advising the Assembly of the details of impending ministerial absences and acting arrangements?

MR KAINE: Mr Speaker, no member of the Government will be absent on leave during any times at which the Assembly will be sitting. As far as I am aware, they will be absent only during the term break. Under such circumstances I do not believe that I have any responsibility or obligation to inform Mr Connolly or anybody else of what my private movements are.

Mr Connolly: That is outrageous.

MR KAINE: You might think so. I do not ask you where you go when the Assembly is in recess and I do not believe that you have the right to ask me where I go. It is none of your business, frankly.

Ms Follett: That was not the question.

MR KAINE: That was the first part of the question and I have answered that satisfactorily.

Mr Collaery: He is not going to Moscow; that is for sure.

Mr Moore: Why not? He speaks Russian. I believe that he speaks Russian fluently.

MR KAINE: People in and out of the Assembly who need to know the arrangements, certainly during my absence, will be properly informed.

MR CONNOLLY: I have a supplementary question. Is the Chief Minister saying that the Canberra community is not entitled to know who will be the Ministers of the Cabinet of the Government of the Australian Capital Territory for a period of six weeks? Is he so arrogant that he will not advise the Assembly of who will be the Ministers administering the laws of this Territory for the next six weeks? I guess the answer is yes, he is so arrogant.

MR KAINE: I have answered the question, Mr Speaker.

Ambulance Service

MRS NOLAN: My question is to Mr Humphries in his capacity as Minister for Health. Can the Minister inform the Assembly whether he will adopt the recommendations of the joint party staffing paper on the ACT Ambulance Service?

MR HUMPHRIES: At a meeting on 21 November representatives from the ACT Board of Health, including the ACT Ambulance Service, and the Transport Workers Union identified the accumulation of backlogged leave entitlements between 1983 and 1988 as the main problem in the recent dispute which disrupted ambulance services. As a result of that meeting the Ambulance Service and the Transport Workers Union developed a joint party staffing paper identifying a management strategy to resolve that matter.

In the general spirit of cooperation and active preparedness between all parties to resolve the matter, the union has removed all industrial bans that had been placed on the operation of the Ambulance Service pending the result of the ongoing negotiations. I am pleased to advise the Assembly that I am currently discussing the

implementation of the joint party staffing paper recommendations with the union and I expect that process to resolve the outstanding issues.

Mr Berry: Will you endorse the extra five staff?

MR HUMPHRIES: At this stage, no.

Alliance Government

MR BERRY: My question is directed to the Chief Minister and I hope that we can get an answer out of him this time.

Mr Connolly: I doubt it.

MR BERRY: That is probably right too. Does the Chief Minister still believe, as he said in the Assembly on 27 November, that it is absolutely absurd and ludicrous to suggest that public servants are driving this Government's policies?

MR KAINE: Mr Speaker, yes.

MR BERRY: I have a supplementary question. Why then has the Chief Minister not acted to discipline the Deputy Chief Minister, who continues to say that the Minister for Health, Education and the Arts is being driven by his bureaucracy?

MR KAINE: I do not intend to answer a hypothetical question, Mr Speaker.

Belconnen Land Development

MR MOORE: Mr Speaker, my question is to the Chief Minister. I believe it is true that you speak Russian. Is that right? Yes.

Mr Kaine: But I am not going to Russia.

MR MOORE: That will worry Mr Collaery something awful, I can tell you.

I draw the Chief Minister's attention to the preliminary assessment report on the planning and environmental factors of the west Belconnen land development, offered for public comment by the ITPA, and note that at the bottom of page 2 you have been quoted from your budget strategy statement of March this year as saying:

> My Government will be acting quickly to address planning and other issues involved so that we can have access to this land.

Bearing in mind that the parliamentary joint committee stated that "before any development of north west Belconnen proceeds, the ACT Government would need to consider the effect on adjacent areas of New South Wales and discuss planning and development control", and later that "at the very least a vigorous environment and social impact assessment should be prepared before any decision is made to expand West Belconnen toward the border", can the Chief Minister tell us how quickly is "quickly", and will it be quick enough to allow a vigorous environment and social impact assessment?

MR KAINE: I do not know how long it will take to complete some of the things that the Government has undertaken to do in connection with that development, Mr Speaker; but it is certainly our intention to move as quickly as possible because I believe that further development of those areas of Belconnen is a viable alternative to proceeding too quickly with Gungahlin. It will cost us less in infrastructural costs. It will allow us to continue to use community facilities that exist, including some schools which could come under threat in the next few years if there are not more students to occupy them. It will extend the life of those facilities and allow us to use them better. Our intention is to move as quickly as we can to get all of the necessary approvals from the Commonwealth, to do the necessary environmental studies and to get suburbs into place around those vacant areas of Belconnen as quickly as possible.

I would expect that by the middle of next year we would be well advanced on getting the necessary agreement from the Commonwealth, from the National Capital Planning Authority, for the things we need to do. There are already negotiations in place to secure the transfer of land in that area that remains occupied by the Commonwealth. There is no reason why an environmental impact study could not be conducted simultaneously. I think we are talking very much in the short term rather than the longer term.

MR MOORE: I have a supplementary question, Mr Speaker. Is Mr Collaery correct when he says that you are not going to Moscow in spite of the fact that you speak Russian?

MR SPEAKER: Order!

Office of City Management Shopfront

MR STEFANIAK: Perhaps Mr Moore would like the Chief Minister to answer his question in Russian as well and give a Russian translation. My question, however, is to the Minister for Finance and Urban Services. Can the Minister provide the Assembly with details of the new Office of City Management Shopfront in Civic and, in particular, where it is located and when it will open?

MR DUBY: I thank Mr Stefaniak for the question, which is of great interest to people of the Territory and people who use the facilities in Civic. I am pleased to advise that the new Civic shopfront located in East Row at the City Bus Interchange will open next Monday. The shopfront will provide the broad range of services that were provided at the shopfront that used to exist in North Building and, in addition, will include the relocated Civic Public Library. Mr Stefaniak will be pleased to know that the new facilities will be much more convenient for the public, being closer to the bus interchange and avoiding the need to cross London Circuit. I must admit that the shopfront concept has proven to be very successful here in the Territory and the new shopfront has an even wider range of services with the inclusion of the ACT Housing Trust, which is something that will be welcomed by many users of that facility.

Alliance Government

MR WOOD: I direct a question to the Chief Minister. Does the Chief Minister support the assertion of Mr Collaery, reported on television last night, that Mr Collaery has a higher intellectual level and understanding of things than other Ministers?

Mr Collaery: Oh, who said that?

MR WOOD: You did.

MR KAINE: I would not support such a contention at all, alleged or otherwise. I think it is pretty obvious that all four members of the Executive of this Government have very high IQs. Their intellectual capacity far exceeds that of any of the members of the former ministry, and I think it is probably just sour grapes. I think that one of the former Ministers probably put this foul rumour about in order to denigrate the Executive; but I can assure you, Mr Wood, that I do not rate Mr Collaery - - -

Mr Wood: Mr Collaery is wrong then.

MR KAINE: Well, you said that it was an allegation and, as I said, I think it is probably a foul rumour put about by one of the previous Ministers who could not find anything else to say. They seem to take every opportunity they can to say nasty things about the Government to the media. I think this one has backfired because we have demonstrated clearly, by our performance for the last year, that our intellectual capacity far exceeds that of the Opposition and we will continue to demonstrate that for the next five or six years at least.

Education - Links with New South Wales

MR JENSEN: Mr Speaker, my question is directed to the Minister for Health, Education and the Arts, Mr Humphries. Could the Minister indicate whether it is true that as the Minister for Education he is developing new links with New South Wales and, if so, why these links are being developed?

MR HUMPHRIES: I can exploit my fabulous intelligence to answer Mr Jensen's question. It is the case that the Government is involved in developing closer working relationships between the ACT public school system and that of the surrounding south-eastern region of New South Wales.

This is part of the overall strategy of enhancement and development of the Canberra region and is being received very positively by both governments. The meeting only last week, I think, of the South East Economic Development Council, I believe it is called, emphasises the importance the ACT places on cooperation at that level.

Senior officers of my ministry have had discussions with those of the New South Wales ministry and initial investigations have commenced into the possibility and the desirability of the creation of alternative approaches to the delivery of post-compulsory education, that is, secondary college level education, for students from Queanbeyan and the surrounding areas of New South Wales. There are a number of exciting possibilities that present themselves, including that of a secondary college, a la ACT style, for Queanbeyan. In addition, consideration has been given to the most appropriate forms of delivery of special education services for students from that region. Members will be aware that a large number of those services are consumed by people from surrounding New South Wales.

I would also like the Assembly to be aware that students will benefit significantly from a recent agreement which provides a legal basis for New South Wales and ACT public school students gaining work experience in each other's areas. The overall aim of the new association between the two systems is to provide maximum educational opportunity for students within that region and ultimately to benefit the entire region.

Alliance Government

MRS GRASSBY: My question is to the Chief Minister. Are the Liberal Party Ministers abandoning the Government and leaving it in the uncertain hands of the junior coalition partners? Will Mr Collaery and Mr Duby be completely free to hold Cabinet meetings and make decisions in all areas of Government policy while the two Liberal Party Ministers are on holidays?

MR KAINE: The answer is no and no. This gives me an opportunity to conclude the answer to a question that I was asked last year: "What is an IQ of 144?". The answer was: The Labor Government in caucus.

Building Industry

MS FOLLETT: My question is to Mr Kaine again. Does the introduction of the Royal Commissions Bill and the Royal Commissions and Inquiries (Consequential Provisions) Bill mean that you have changed your mind and will allow Mr Collaery to establish a royal commission into the ACT building industry?

MR KAINE: Not at all, Mr Speaker. The reason for the introduction of the Royal Commissions Bill is simply that it was brought to our attention that, at the moment, if there were a need for a royal commission to be convened we do not have the power to do so. It is filling a gap in our law to enable the Government, or any other government in the future, to convene such a commission if the need ever arises. It has nothing to do with historical facts.

MS FOLLETT: I have a supplementary question, Mr Speaker. Will Mr Kaine assure the Assembly that it will not be possible for Mr Collaery to establish any royal commission without Cabinet approval?

MR KAINE: Yes, absolutely.

Rubbish

MR STEVENSON: My question is to Mr Duby and concerns rapid rubbish recycling. What arrangements have been made to ensure that there are adequate rubbish bins at the major events in Canberra during the Christmas festival? I make the point because there were some problems last year with bottles or drink containers all over the place. Some rubbish bins were full. Will such drink containers be recycled?

MR DUBY: I thank Mr Stevenson for the question. It has been a matter of concern in previous years, I am aware, particularly at functions like the Canberra Festival. A number of people complained about the amount of litter that was left after functions in Commonwealth Park and other places throughout the Territory. With that in mind I have instructed my department to ensure that there are adequate, indeed, more than adequate, facilities provided for the collection of both litter and rubbish.

As part of the Government's ongoing commitment to recycling, I can also assure Mr Stevenson that there will be bins and receptacles for the recycling of glass and

aluminium and steel cans used during those particular functions. I would invite Mr Stevenson, prior to the event, if he so cares, to arrange with my office to have an inspection of the site, and other sites that he might care to mention, to convince himself that all necessary steps are being taken.

Alliance Government

MR CONNOLLY: My question is to the Chief Minister. I refer him to his earlier answer to Mrs Grassby's question in which he said that the acting Ministers would not be exercising all the ordinary powers of Ministers. Does the Chief Minister agree that while he is out of the country Mr Collaery will exercise all of the powers of Chief Minister other than the power to dismiss Ministers?

MR KAINE: Mr Collaery will be acting in the capacity of Acting Chief Minister as is prescribed in the Australian Capital Territory (Self-Government) Act.

Curtin Primary School

MRS NOLAN: My question is again to Mr Humphries, this time in his capacity as Minister for Education, and it relates to the relocation of Curtin Primary School. How will the relocation of Curtin Primary School lead to a positive and beneficial educational environment for the Curtin children?

MR HUMPHRIES: I thank Mrs Nolan for that question. The situation at Curtin Primary School is an interesting one which has been largely overlooked by people in the debate about school closures and in particular by those opposite, who seem to have been prepared to vote against the closure of the present Curtin Primary School without any consultation with the school community concerned.

Mr Berry: Did they line up and ask you to close their school?

MR HUMPHRIES: The staff and community of the Curtin Primary School have worked diligently to ensure a smooth transition and minimum disruption for their children. They are appalled that their children are being made scapegoats and used as pawns in a wider political scenario.

To answer the question that Mr Berry interjected across the chamber, I want to read to him part of a letter that I received from the chair of the Curtin Primary School Board and the secretary of the Curtin P and C Association in which they say:

> The community -

that is the community of the Curtin Primary School -

> has decided that the relocation of Curtin Primary School is a positive and beneficial move that will result in a better educational facility for our children.

I remind the house that those opposite voted against the closure of that school without any consultation whatsoever with the school community concerned. That is an appalling set of circumstances to have arisen. The new school, once it is refurbished and complete at South Curtin, has the potential to become a vibrant and viable central area school serving a substantial section of the Woden community.

A great deal more is at stake if the bans presently on the school are not lifted. It has certainly placed the Curtin and Lyons children in a fluctuating environment. Many parents who all along wished their children to attend the new school are placed in an extremely doubtful situation. A process of attrition is likely to occur, leading to a loss of children from those schools, particularly Lyons, to other schools due to the uncertainty surrounding the refurbishment.

I have to say that morale in the Curtin school has been excellent until very recently. The fact that it has waned in the last few days is very largely attributable to the tactics employed by some parents at the Lyons Primary School and to the continuing unwillingness of the Trades and Labour Council to listen to those parents and their request that the bans be removed.

Alliance Government

MR MOORE: My question is to the Chief Minister and has to do with the time he is away. First, can he tell us who will be the Minister looking after the areas of health and education? Will the Acting Chief Minister, Bernard Collaery, have the power to sack senior public servants during your absence?

MR KAINE: In answer to the first part of the question, Mr Duby will be handling health and education. In terms of the second part of the question, no member of the Executive has the power to fire any public servant. I know that there was an incident under the Labor Government when a Minister improperly exercised such a power. It is not the intention of this Government to do so. No public servant need fear his job under this Government. We have already said that, even in restructuring, if people become

redundant they will be offered a chance to redeploy or they will be offered voluntary redundancy packages. We will not fire any public servants and I am quite confident that Mr Collaery will not be firing any while I am on leave.

Schools and Colleges - New Enrolments

DR KINLOCH: Mr Speaker, my question is directed to that Minister whose IQ is exactly one-quarter of the composite IQ of the four Ministers, namely, 576.376; so my question is to Mr Humphries. Is it a fact that all students attending a primary school, a high school or a secondary college for the first time next year will have to produce an Australian passport or an Australian birth certificate to prove that they are residents or citizens of Australia? Will failure to produce one of these documents mean that the student will have to pay fees?

MR HUMPHRIES: I thank Dr Kinloch for that question because it is a matter of some concern to some school communities at the moment that that might be the case. It certainly has been the expectation in some parts that that will be the case. The Commonwealth informed the States in the middle of this year that certain categories of foreign students in Australia will have to pay fees to attend public schools from the beginning of 1991. The Commonwealth will not provide funding for those students who are expected to pay for attending those schools.

Originally my ministry felt that it would be necessary to ask all students to show documents to establish their status; but a meeting was held in August between officers of the Commonwealth and State education departments, including the ACT department, and the recommendation was made that the number of categories be reduced significantly. Under this recommendation only the children of people from overseas who, themselves, were paying fees to study at tertiary education institutions would be liable to pay school fees. That means that such a large-scale operation as demanding documentation from every student will not be necessary in the ACT. It will also relieve parents of having to obtain birth certificates for their children, if they have not already got them, at the cost of $17 or so, and even more than that in some other States.

I am concerned, however, that the Commonwealth Minister for Employment, Education and Training has not yet endorsed recommendations of the meeting of his own officers and those of the States that attended that meeting. I can assure Canberra parents that they need not rush to the Registrar of Births, Deaths and Marriages because our schools will not require them either to provide a certificate or to pay fees.

MR KAINE: Mr Speaker, I request that any further questions be placed on the notice paper.

Murrumbidgee River - Sand Mining

MR KAINE: Mr Speaker, I would like to answer a question that Mr Moore asked of me yesterday. It had to do with the removal of sand from the Murrumbidgee River. The last part of his question was:

> So is the Alliance Government sticking to point 3.6 of its policy, of ensuring that no sand and gravel extracted from the Murrumbidgee River in New South Wales is being used here, or is it not?

I took the question on notice. Mr Speaker, the Alliance Government's policy on sand mining in the Murrumbidgee is clearly stated in point 4.11 of its environment strategy, not point 3.6. I think you must have made the number up.

Mr Moore: I must have had a draft version that was leaked earlier.

MR KAINE: I think you must have made the number up. It states that Government authorities and departments will continue not to use sand and gravel extracted from the Murrumbidgee River in New South Wales. We adopted this position to ensure a consistent regional approach. Since the Alliance Government prohibited commercial sand mining of the river within our borders, for very sound environmental reasons, it was necessary that we should also refuse to create a market for sand mined in the Murrumbidgee outside our borders.

The statements made by Mr Hyles in the *Canberra Times* of 7 December 1990 are of some concern to the Government. I am advised that it is possible that some agencies of the Administration may have inadvertently and indirectly purchased sand from Mr Hyles, although no evidence has been found to support that claim. This situation could have come about if contractors engaged by the ACT Administration in turn subcontracted work directly to Mr Hyles' company or to companies which may have bought sand from Mr Hyles remote from the Government. Accordingly, those areas of the Administration contracting for sand are now reviewing tender documents to see whether the Government's policy can be more effectively enforced.

While we are taking whatever measures we can to ensure the environmental protection of the Murrumbidgee, it must be pointed out that the responsibility for controlling environmental vandalism in New South Wales rests with the New South Wales local and State agencies.

The Assembly will be aware, no doubt, that the issue of extractive industries is now receiving proper attention by all governments in the region and not just the ACT. Under the umbrella of the South East Economic Development Council,

work is commencing on a regional strategy for extractive industries which should ensure that important economic and environmental impacts are properly managed in a regional context. Such a coordinated regional approach should reduce pressure on the Murrumbidgee River corridor.

Emergency Service - Disaster Plans

MR DUBY: Mr Speaker, on 29 November Mr Moore asked the Chief Minister a question regarding the legislative basis available to the ACT Emergency Service to invoke a disaster plan in the event of a disaster, for example, the re-election of a Labor government or, perhaps, the failure of the Googong Dam. The Chief Minister referred the question to me as Minister responsible for the ACT Emergency Service.

There is an ACT Disaster Plan, first published in 1984, which, whilst not supported by legislation, has the agreement of all participants, namely, the relevant emergency and welfare agencies, and was authorised by the Commonwealth Minister for Territories and Local Government. There is a supporting welfare plan which is currently being revised. These plans, together with the supporting medical and health plan, provide the ACT with the ability to cope with almost any disaster threat.

Specific arrangements are being made to handle a possible flooding disaster from the Googong Dam within the overall bounds of the ACT Disaster Plan and its supporting plans. My department is currently working on a proposal to provide legislative support to the ACT Disaster Plan.

Asbestos Testing

MR DUBY: Mr Speaker, yesterday Mrs Grassby asked me how long it takes before the first test is made on a sample taken to the air monitoring laboratory in the Asbestos Branch and how often these tests, or the branch results of such tests, get checked by an independent laboratory. I am very pleased to be able to advise Mrs Grassby that, once a sample is taken to the Asbestos Branch laboratory, preparation of the sample for analysis takes around 10 minutes and actual analysis of the sample takes an average of five minutes. The analysis time can vary marginally, depending on the nature of the sample. There is almost no delay in processing samples for analysis, as in 90 per cent of cases the person who took the sample is the person who does the analysis. The normal procedure is that a laboratory officer will return to the laboratory with a batch of samples he or she has collected, prepare them for analysis and then perform the analysis.

In relation to the independent testing of the branch laboratory results, a set of slides and/or laboratory staff are sent about once a month to Pickford Consulting in Sydney for checking. Pickford Consulting is one of the leading laboratories in the country for this kind of analysis, and the slides the branch sends to them represent the more complex samples which the branch has tested. This independent laboratory has also provided training and refresher courses for the branch laboratory staff.

As far as the general competence of the laboratory staff goes, Mrs Grassby may be interested to know that the branch laboratory analysts are tested themselves every six months by the National Association of Testing Authorities. She can rest assured that all required standards are being met.

Liquor Licence Fees

MR DUBY: Mr Speaker, on 20 November Ms Follett asked the Treasurer: What is the estimated one-off gain to revenue in the first year of quarterly liquor licence payments and, secondly, what is the estimated interest benefit to the Territory in subsequent years? As this matter falls within my portfolio, the Treasurer referred it to me for response, and the answer is as follows:

> The Government acted last September to change collection arrangements for liquor licence fees to overcome substantial bad debt problems. The Government has now modified these arrangements to ease the move to the new scheme.
>
> Licensees will now be given three years to make payments in respect of their 1990-91 fees. In addition, the quarterly licence fee in respect of "off licence" establishments will be reduced from 10 per cent to 8 per cent of purchases.
>
> With these arrangements in place, the estimate of revenue from liquor licence fees in the first year of the quarterly scheme, that is 1991-92, has increased from $10m under the current arrangements to $10.4m, an increase of approximately $400,000 - for the benefit of Ms Follett.
>
> In 1992-93 a further net increase of $1.6m is expected as a result of the new arrangements, with payments towards the 1990-91 fees being partially offset by reduced ongoing quarterly payments. A further net $1.5m is expected in 1993-94.

As to the second part of the question - "What is the estimated interest benefit to the Territory in subsequent years?" - the answer is as follows:

In addition to the one-off effects outlined above, the effect of the new arrangements is that payments will be received 28 days after the end of each quarter rather than in two six-monthly sums in November and May. The interest benefit resulting from these changed arrangements is estimated to be approximately $250,000 per annum at interest rates currently applying.

Standing Committee on Conservation, Heritage and Environment

DR KINLOCH: Mr Speaker, on Tuesday, 11 December, Mr Moore asked me a question about a cancelled meeting - cancelled at my request - of the Standing Committee on Conservation, Heritage and Environment which was to have been held on Tuesday, 4 December, at 2.00 pm. In order to answer that, I needed to consult my diary.

At the time I requested that the meeting be cancelled I was at home trying to cope with an attack of a chronic and painful ailment from which I suffer from time to time. It is a condition which recurs suddenly without notice. I then take medication to relieve it. The condition clears up within a day or so usually; but on this occasion, alas, there were not enough pills left and the medication had gone beyond the expiry date.

One of our staff members, with whom I consulted by phone, arranged for a medical appointment at the first possible opportunity. I also consulted by phone the secretary of the committee. He rightly reminded me of the problem then of a quorum of three out of five. One member of the committee, Mrs Nolan, was in Perth on the business of the committee. The deputy chairman, Mr Stefaniak, had another engagement in his role as Executive Deputy to Mr Collaery. Therefore, from home and by phone, I cancelled all three of my Legislative Assembly related engagements for Tuesday, 4 February - they were at 10 o'clock, 2 o'clock and 5.30 - and asked the committee secretary to relay the decision about the 2.00 pm appointment to those affected.

I come now to another part of Mr Moore's question - "To what extent was your concern for the vulnerability of your position as chair of that committee where there is prestige and allowance an influencing factor in that decision?". I completely reject any notion that I remain chair of the committee to advance either my prestige or my income. Whatever prestige I may or may not have does not depend, I assure you, on being chairman of a Legislative Assembly committee; nor have I a pecuniary need to maintain the minimal allowance which is awarded to chairs of committees.

X-Rated Videos

MR COLLAERY: In question time on Tuesday Mr Stevenson asked me a question about a paper on TV and video viewing issued by the Women's Commission of the General Synod of the Anglican Church of Australia. I agreed to check on the matter. My office has received hundreds of representations about X-rated videos and, as far as can be ascertained, that paper has not been received as yet in my office. It should be noted that it appears from a press release issued by the synod that the paper was under embargo until 2 December 1990. I table that press release. I thank Mr Stevenson for supplying the release to one of my officers.

My Law Office has contacted the General Synod in Sydney and asked for a copy of the actual paper which is titled "Discriminative TV video viewing". When received, copies of the paper will be available from my office for any member who wishes to examine the document.

On a separate matter, also I believe raised by Mr Stevenson, the Law Office has now obtained a copy of the Granny May's sales catalogue with the adults only section and it will be referred to the Commonwealth Chief Censor for classification.

PAPERS

MR COLLAERY (Deputy Chief Minister): Pursuant to subsection 11(2) of the Taxation (Administration) Act 1987 I table for the information of members the 1989-90 annual report of the ACT Treasury.

I also table for the information of members the 1989-90 annual report of the Chief Minister's Department and the 1989-90 annual report of the Head of Administration of the ACT Government Service.

SUBORDINATE LEGISLATION
Paper

MR COLLAERY (Deputy Chief Minister): Pursuant to section 6 of the Subordinate Laws Act 1989, I table subordinate legislation in accordance with the schedule of gazettal notices for ministerial determinations as follows:

> Housing Assistance Act - Determination of fees - No. 70 of 1990 - Amendment (G49, dated 12 December 1990).

FORWARD ESTIMATES 1991-92 TO 1993-94
Ministerial Statement and Paper

MR KAINE (Chief Minister and Treasurer), by leave: I present the Forward Estimates report for 1991-92 through to 1993-94. The report is not a policy statement but a factual one. It details the forecasts of receipts and expenditure based on the existing policies of this Government as set out in the 1990-91 budget. The estimates in the report also reflect the impact of forecast levels of population, employment and urban development as well as the full year impact of initiatives taken in this current year's budget.

The publication of this report is an integral part of the financial management policies adopted by the Government. The report provides the basis upon which the strategy for the 1991-92 budget will be determined and it is the framework for establishing priorities over the longer term.

The economic environment is subdued. We are currently in a recession. A recovery in the national economy is not expected until at least the second half of next year. The monetary and fiscal policies of the Commonwealth will continue to impact more directly on the ACT than they do on the national economy. In addition, the Middle East conflict has resulted in a downturn in other major industrialised economies. This means less growth for Australian exports. Interest rates have dropped in recent months; however, future reductions are expected to be limited by concerns over the balance of payments.

This outlook means that the ACT economy will remain constrained in the short to medium term. The public sector is not growing and there is a slowdown in private sector economic activity. The broadening of the economic base will continue to be important to continued economic growth. In essence, the economic outlook is more serious than that forecast in the budget and it highlights the importance of the strategy that this Government has adopted.

The need to shift from dependence on the Commonwealth Government as our major employment base to a stronger, more diverse, private sector was rightly listed as the first goal in the Alliance Government's budget strategy and remains there. The other components of our strategy also remain unchanged. We will be aiming to produce future balanced recurrent budgets, to minimise borrowings and to better utilise the Territory's capital base.

In each of the last two years the Commonwealth has failed to honour its real terms funding guarantee. Next financial year is the first year of the two-year additional transitional arrangements foreshadowed by the Prime Minister. The Commonwealth Grants Commission is to report at the end of March next year on the extent of overfunding received by the ACT from the Commonwealth. The outcome, of course, is unknown at this stage and therefore key

assumptions have had to be made concerning the level of general revenue assistance from the Commonwealth. It has been assumed that the Commonwealth will hold the general revenue grant at the current level for each of the next two years. This in effect means a cut of 7 per cent for 1991-92 and a further 6.5 per cent cut in 1992-93, consistent with the forecast inflation levels.

On this basis the Forward Estimates indicate that an adjustment of some $20m is required to achieve a balanced recurrent budget in 1991-92 and this gap increases to $39m in the later years. The Forward Estimates provide for a further $25m to be spent on restructuring each year and assume an annual expenditure reduction of 25c for each restructuring dollar spent. Continued funding for restructuring is essential if the ACT's long-term financial position is to be secured.

The recent rejection of my claim for assistance from the Transitional Funding Trust Account for restructuring projects in 1990-91 means that we are unable to cut our reliance on new borrowings below the budgeted figure of $44m. On the capital side of the budget the goal of minimising borrowings is being progressively implemented. The forecast shows that borrowings will decrease by almost one-third of the 1990-91 level in two years' time.

This goal is being achieved while undertaking the hospital redevelopment program and maintaining the rest of the construction program at the 1990-91 levels. The construction program to be undertaken by the Government in the future will not only help stabilise local activity in 1991-92 but also provide the base for a longer-term core program of essential works, thereby minimising the peaks and troughs that have affected the local industry in the past. The proposed level of new works also means that pressure will continue to be placed on improving the use of our existing capital base. In overall terms, Mr Speaker, it is clear that the budget strategy adopted in 1990-91 is soundly based and necessary to complete the transition to Statewide funding levels.

Mr Speaker, I intend to avoid massive across-the-board cuts. Specific expenditure areas will be targeted for reduction. Reviews of the land, policing, roads and environment and conservation programs are currently under way and further programs will be covered prior to the finalisation of the 1991-92 budget. I have noted the concerns of the Estimates Committee about the costs of consultancies and travel, and a tight rein will be kept on such expenditures.

I will be looking to commence negotiations on the level of general revenue assistance from the Commonwealth early in 1991. If arrangements can be established quickly, the ACT can look forward to continued progressive implementation of the four key goals forming the Alliance Government budget strategy and a stable business and economic climate.

Mr Speaker, I table the Forward Estimates report 1991-92 to 1993-94 and move:

That the Assembly takes note of the paper.

Debate (on motion by **Ms Follett**) adjourned.

PLANNING AND LAND USE - DRAFT LEGISLATION
Ministerial Statement and Papers

MR KAINE (Chief Minister), by leave: Mr Speaker, it gives me pleasure to table the revised draft Bills in the Government's package of planning and land use legislation, together with related documentation. The planning and land use legislation consists of five draft Bills. They are the Planning Bill, the Heritage Bill, the Environmental Assessments and Inquiries Bill, the Land Use (Approvals and Orders) Bill and the Land Administration Bill. This, incidentally, was previously called the Land (Leases and Management) Bill.

As members will recall, these Bills were released progressively for public consultation earlier this year. This resulted in the provision of many detailed and thoughtful submissions, providing comments and suggested amendments to the draft legislation. Many submissions expressed the view that more time was needed to examine the Government's proposals in detail, given their importance to all sectors of the community. It was in response to this view that I undertook to release the draft Bills for an additional period of public consultation as soon as they had been revised to take into account comments already received.

The tabling and release of the revised Bills today gives effect to that undertaking. The Government has given careful consideration to all the submissions received and the revised Bills reflect the extent to which it has been possible to accommodate the wide range of views expressed. In view of the subject matter of the planning and land use package, it is neither surprising nor disappointing that the opinions expressed should be diverse. The challenge for the Government has therefore been to achieve a balance between competing attitudes and values, and to adopt an approach which we believe to be in the interests of the community as a whole.

Mr Speaker, I should like to take this opportunity to commend the efforts of all those who took the trouble to provide submissions during the first round of consultation and thus contribute to the further development of the planning and land use package. Their comments have improved the overall quality of the package, both by raising significant policy issues and by suggesting numerous technical or legal amendments to enhance the

operation of the legislation. In order to ensure that there is ample opportunity for interested persons and organisations to examine the revised draft Bills, the period allowed for the additional period of public consultation will extend until the end of February next year.

In addition to the revised draft Bills, we are releasing a number of other documents which will assist in understanding the legislation or which otherwise relate to the planning and land use package. They include an overall statement, explaining the underlying principles of the integrated system and briefly describing the content of each draft Bill; a public consultation report, summarising and discussing the major issues raised during the first round of consultation and outlining the rationale for the Government's response to each issue; and draft heritage criteria, for assessing the heritage significance of places and objects. When finalised, these will be used by the Heritage Council in determining what should be included in the interim registers of heritage places and objects.

They also include draft regulations under the Environmental Assessments and Inquiries Bill; draft disallowable instruments and a statement about regulations under the Land Administration Bill; and draft amendments to the Administrative Appeals Tribunal Act and the Administrative Decisions (Judicial Review) Act. These amendments are necessary to give effect to rights of merit review and legal challenges under the integrated system. This is a very comprehensive set of documents, Mr Speaker, to allow the community at large to understand and to comment upon this important legislation.

Mr Speaker, as can be seen from the list of documents, the Government has gone to considerable trouble to provide a comprehensive body of explanatory and background material in order to assist interested groups and individuals in examining, and commenting upon, the revised draft planning and land use legislation. Perhaps even the Opposition will take the trouble to respond.

The further period of public consultation demonstrates our commitment to community involvement in developing this important legislation. As members will be aware, the Interim Planning Act of 1990 was enacted earlier this week and when I introduced the interim Bill into the Assembly in November I stated - and I should like to repeat it now - that the passage of the interim legislation would not prevent full consultation occurring in relation to the planning and land use package.

The draft Planning Bill which I have tabled today contains provisions identical to those in the interim Act for making and varying the Territory Plan and for establishing the Territory Planning Authority. Should the further round of consultation result in changes being required to these provisions, they will be incorporated into the finalised legislation.

Mr Speaker, I should like to conclude by extending an invitation to all Assembly members and to all interested groups and individuals to examine the revised legislation carefully and to contribute any further comments that they may have. I particularly invite members of the Opposition to examine and comment upon the revised Bills and trust that this second round of consultation will allow us to develop a bipartisan approach to the further development of the legislation.

I shall also be referring the revised Bills to those Assembly committees which are already considering the planning and land use package - they are the Planning, Development and Infrastructure Committee and the Conservation, Heritage and Environment Committee - so that they can complete their consideration of the package. By receiving the views and expertise of all of these people, we can ensure that the planning and land use legislation reflects the needs of each sector of the ACT community.

I move:

That the Assembly takes note of the papers.

MR CONNOLLY (3.24): Mr Speaker, at long last, in the dying hours of the last day of sitting of this place for 1990, we finally have the documentation in relation to the consultation on the land planning package.

Mr Kaine: So much for the hope of a bipartisan approach.

MR CONNOLLY: The Chief Minister says, "So much for a bipartisan approach". We have repeatedly said that we are adopting a bipartisan approach to this legislation; but we must point out that this is the legislation that Mr Jensen claimed in February should have already been in place and operating and that Mr Collaery, at this time last year, in the motion of no confidence in the Labor Government, claimed should have been in place and operating. Indeed, he cited as one of the main failings of the Labor Government its failure to have this legislation in place and operating. Yet the Government has taken 12 months to go through the process of releasing the first draft and providing an exposure copy.

Mr Speaker, having said that, I welcome the release at last of these documents and I can only join with the Chief Minister in hoping that this provokes some constructive further consultation. I cannot see, from going through these papers, whether there is a simple guide to where this legislation differs from the earlier draft. That certainly would have been a helpful piece of information for those interested people in the community to see how the Government has changed its mind from version 1 to version 2. I look forward - though without much confidence - to seeing this legislation in place in the middle part of next year.

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

JUVENILE JUSTICE AND ADULT CORRECTIVE SERVICES - REVIEW
Ministerial Statement

MR COLLAERY (Attorney-General), by leave: ACT Adult Corrective Services currently has responsibility for detention of those remanded in custody, arrangements with New South Wales for custody of prisoners of low to high security status, probation and parole schemes, the community service order scheme and attendance centre programs which commenced in 1989-90. The Juvenile Justice Section includes in its role the placement of a small number of violent or serious young offenders in New South Wales juvenile detention centres, the capacity to detain low to medium security young offenders at Quamby, and an attendance centre at Quamby for less serious offenders.

The number of offenders in these correctional services is dependent upon the incidence of offending behaviour and the sentencing practices of the Supreme Court and the Magistrates Court. The corrections system which the ACT Government has inherited from the Commonwealth has problems, which have been acknowledged for some time, related to the fact that former Commonwealth governments by and large simply adopted New South Wales criminal justice and corrections systems to deal with their own offenders.

Whilst the ACT's criminal legislation is gradually emerging from under this yoke, the transportation of persons sentenced by our courts to New South Wales creates particular hardship for the families and friends of prisoners. It is very difficult for them to maintain regular contact and hence makes more difficult the reintegration of prisoners into the community on their release. Under the legislation our prisoners are also subject to the truth in sentencing provisions which have abolished remissions for prisoners in New South Wales. This legislation has produced a dramatic increase in its prison populations over the past 15 months - some figures suggest in the order of 15 per cent.

The ACT should be proud of the fact that it has consistently had the lowest rate of imprisonment in the country. It is widely acknowledged that imprisonment should be used as a penalty of the last resort because of the hardship it causes to the offender and the family unit as well as its failure to rehabilitate and to prevent reoffending. In addition, it is extremely costly to the community. Expenditure in 1990-91 on adult corrections will be almost $7m. About half of this amount will pay for the accommodation of ACT prisoners in New South Wales gaols. Because of the impact of the New South Wales truth in sentencing provisions, this amount may increase over the next 12 months. It is therefore vital that the ACT address all means within its power to halt further escalation of costs in this area.

By comparison with other jurisdictions, the ACT has a narrow range of sentencing options. This Government is therefore investigating extending available options such as possible work release and home detention schemes. These will enable the ACT to have more control over the supervision and rehabilitation of its offenders and also lower our payments to New South Wales. Such options require careful planning and community consultation and research into experience elsewhere if they are to be effective and worthwhile programs. Community and judicial support for these alternatives is essential to their success.

With this in mind, the Government has agreed to appoint a ministerial advisory committee to undertake a review of corrective services and juvenile justice and to prepare a five-year strategic plan. This committee has the following terms of reference: developing alternative strategies in a climate of fiscal restraint; broadening the range of corrective services programs and sentencing options to reduce reliance on gaols and offender institutions; alternative custodial options for the residual prisoner population; the future of the Belconnen Remand Centre and Quamby Juvenile Detention Centre; fostering community involvement in the delivery of corrective services programs; strategies to prevent crime and offending, particularly for young people; measures to improve ACT service, including training, research and evaluation to ensure appropriate standards and services.

The committee will provide an initial report by the end of March 1991, with a final report by October 1991. I am pleased to announce that the committee will be chaired by Mr David Chandler, who is the founding principal of the project management organisation Australia Pacific Projects Corporation and who has expertise in management systems and in delivery of project outcomes within time and budgetary constraints.

Other members of the committee have a wide range of expertise in the criminal justice system and will provide valuable input into the review. They include the deputy chair, Professor David Hambly, professor of law and member of the ACT Parole Board; Mr Ron Cahill, the Chief Magistrate of the ACT; Mr David Biles, deputy director of the Australian Institute of Criminology and consultant to the Royal Commission on Aboriginal Deaths in Custody; Dr Hugh Veness, forensic psychiatrist; Ms Kass Hancock, ACT Council of Social Service; Dr Hugh Smith, president of Civic Rehabilitation Committee; Ms Anna Kleber, member of the ACT Parole Board; and Ms Barbara George and other representatives detailed on the paper I table. Mr Speaker, I table the membership of the committee for the information of the Assembly.

In the interim I have been most concerned at the recent reports of disturbances in gaols in New South Wales following the implementation of more restrictive policies in regard to prisoners' personal property in cells. The problem of overcrowding in New South Wales has also been recognised for some time, as has the limited access by prisoners to educational programs, work skill development and other facilities. With this in mind I requested several months ago that a review of ACT prisoners be carried out in order to ascertain whether they were experiencing any discriminatory treatment. I also wanted more information on their general welfare and conditions, particularly those such as the psychiatrically disturbed.

In recent months officers in ACT Adult Corrective Services have interviewed nearly all ACT prisoners in the Goulburn, Long Bay, Mulawa, Mannus and Cooma gaols. I am happy to report that an overwhelming majority of those interviewed said that they felt there was no discrimination against them, although they were concerned about the threat of assault and about their rights. Much useful information was gathered as to their conditions and their access to educational programs, counselling, legal services and so on. Some problems have been identified, largely in relation to adequate pre-release contact by New South Wales or ACT authorities and concerns with overcrowding in some facilities.

ACT Corrective Services is also pursuing discussions with New South Wales authorities not only with a view to having a higher proportion of ACT prisoners located in gaols closest to the ACT, but also in order to have available more regular and detailed information on our prisoners. In this way we can monitor their progress more closely and make plans for the future on the basis of accurate information. Data available to us, as at 17 October, suggested that slightly fewer than one-third of ACT prisoners were in the lowest two security classifications and thus possible candidates for pre-release programs, although of these only a small number were in the minimum classification and thus eligible for the New South Wales work release program. In addition, slightly more than half of all ACT prisoners at that time had less than 12 months to serve before their earliest possible release date. Clearly, given such numbers, the possibility of pre-release programs merits closer investigation in the ACT.

However, before a final determination can be made as to the most appropriate form for these programs to take, for example, work release in association with home detention or accommodation in an appropriate minimum security institution in the ACT, several important considerations must be closely examined. These are: eligibility criteria, including family circumstances; effective assessment procedures; attitudes of our community and of sentencing authorities; appropriate legislation;

administrative procedures, particularly in regard to liaison with New South Wales; and resource costs. The operation of work release and home detention programs in other States and overseas is also being examined.

In addition, steps are being taken to ensure that prisoners such as the psychiatrically ill are sent directly to the appropriate facility, rather than to Goulburn Gaol, pending their classification. We are actively improving the quality of care given to mentally ill remandees at Belconnen Remand Centre. A qualified psychiatric nurse has been appointed to the staff, all custodial staff will receive intensive training in February 1991 entitled "Managing the Mentally Ill" - an in-service course which has attracted much interest interstate - and tenders will be called shortly, following the design stage, for the construction of six special care units at the centre for a total cost of $560,000. In addition, Mr Berry, a psychologist will commence in the new year with Adult Corrective Services to provide improved access to psychological and counselling services.

This is a period, Mr Speaker, of great growth and change in ACT Corrective Services, and I look forward to reporting to the Assembly on further developments as they occur. Need I add that I trust that on most issues we can maintain bipartisanship whilst we work through this very difficult challenge. I present the following paper:

> Juvenile justice and adult corrective services - Review - Ministerial statement, 13 December 1990.

I move:

> That the Assembly takes note of the paper.

MR BERRY (3.36): Mr Speaker, this issue of corrective services has been one of interest to the Labor Opposition since this Government came to power. I, for one, have been critical of the slow pace of change that presented itself in the form of Minister Collaery. It still is a serious problem for the from 75 to 90 ACT residents who are incarcerated in New South Wales gaols. I heard the Minister say this in his report to this Assembly:

> I am happy to report that an overwhelming majority of those interviewed said that they felt there was no discrimination against them, although they were concerned about the threat of assault and about their rights.

The issue was never about discrimination. Discrimination has been introduced only as a bit of a red herring to divert attention from the real issue, that is, the issue of human rights in New South Wales gaols and, of course, the withdrawal of those rights. Whilst the Minister has announced some positive steps in relation to the setting up of an advisory committee to look at these issues and a

range of options which the advisory committee will address, those civil liberties or human rights issues remain outstanding to those prisoners in the New South Wales gaol system and those who will be put in the New South Wales gaol system while the ministerial advisory committee addresses itself to the terms of reference.

The fact of the matter is that the Government and, in particular, the Minister have been very quiet about what goes on in the New South Wales system. Indeed, when I raised it at the New South Wales-ACT Consultative Forum in Queanbeyan a week ago the Minister opposite was reasonably quiet about the issue. The fact is that they are letting the New South Wales Government off lightly. Nothing will change in the New South Wales gaol system unless there is disquiet about the behaviour of Minister Yabsley in New South Wales and the Greiner Government. They have mistreated prisoners in their gaol system, they are responsible for the overcrowding of their gaols, and the conservative Ministers opposite are sitting quietly on the issue.

It is a positive move, however, that the Government should try to ensure that people are incarcerated as a last resort. It is a positive move that further examination of work release and home detention programs should be investigated. But it is correct, as well, that it has to have wide community support. The difficulty for the Government will be that a prevailing view in some sectors of the community is that the best thing to do with people who have offended against the laws is to lock them away out of sight.

The Government will have to resist the temptation to do that. We know that there is at least one amongst the Government who would rather lock people up than leave them out on the streets. Although Mr Stefaniak has mostly directed his attention to young people, I am sure that he feels pretty much the same way about adults as well. So it is a matter of concern for the Government. It is something that the Labor Opposition will focus on continually because the issue of human rights is at the base of the structure for the Labor Party. We will continue to pursue it.

I am happy to have participated in some community angst about the conditions in the New South Wales gaol system. I hope that the Minister opposite does not think that because he has made this announcement the disquiet about conditions in the New South Wales system will go away. Labor expects that the Minister should continue to direct his attention to the rights and conditions under which ACT prisoners are kept in New South Wales gaols. Though they are only a small number amongst the massive number who are incarcerated in the New South Wales gaol system, we still have a responsibility to ensure that the rights of those people are protected.

Mr Collaery: Oh, come on, Wayne.

MR BERRY: I heard Mr Collaery say, "Oh, come on, Wayne", as if to say, "Leave me alone; I am trying the hardest I can".

Mr Collaery: No; I just told you to hurry up.

MR BERRY: While ever there are human rights abuses, even if there is only one human rights abuse, it is the obligation of all of us to ensure that that does not continue. I am not the last speaker on this, Mr Collaery; so I hope you say "Come on" to the next one as well.

Mr Collaery: No; I have deep faith in the next speaker.

MR BERRY: Deep faith in the next speaker? I repeat, Mr Speaker, that this is a sign of some positive moves for the provision of corrective services in the ACT. I hope that we are able to get to a position where conditions improve for prisoners. I hope that we are able to improve our very good record on imprisonment of offenders. But I hope, too, that the Minister responsible for this portfolio - I should not say "continues" because I think the pressure on the New South Wales Government has been pretty light on - improves and strengthens the pressure on the New South Wales Government to change their disastrous policies on corrective services.

MR MOORE (3.43): Mr Speaker, I want to take this opportunity to congratulate Mr Collaery on this initiative and on establishing a committee with these terms of reference. There is a major problem for the ACT. Mr Collaery has often addressed it and Mr Berry has mentioned it. Things seem not to be improving, particularly in New South Wales prisons. In fact they seem to be going backwards. People's human rights seem not to be recognised as a Liberal Government there takes a more and more right wing approach - - -

Mr Kaine: Doctrinaire.

MR MOORE: Thank you. It is taking that approach instead of concentrating on rehabilitation and what it ought to achieve. One of the great disappointments about this paper that I would like to mention is to do with the ministerial advisory committee. Contrast the approach of Mr Humphries on the health board, on the theatre trust in the area of the arts and on several other boards over recent times, with that of Mr Collaery. Mr Humphries has consulted and spent quite a bit of time explaining why he selected different people and what he intends. He has taken seriously suggestions that I have made about membership of those boards.

Mr Collaery, on the other hand, announces a board without any reference to members of the Assembly. I would urge Mr Collaery to take note, when he is putting together a ministerial advisory committee or any other form of

committee or board, that members of the Assembly have appreciated Mr Humphries' approach to consultation. Mr Collaery would do well to follow the example set by Mr Humphries in his willingness to consult and his willingness to try to get a fairly bipartisan approach on at least some issues. This is an issue that would do far better with a bipartisan approach and - - -

MR SPEAKER: Order! Mr Collaery and Mr Connolly, I do not believe that it is appropriate to confer in the middle of the chamber.

MR MOORE: Thank you, Mr Speaker. It was a horrible view that I had there for a while. At least, Mr Speaker, they were not stomping up and down and throwing their arms about while they were there. I must say that I do not think any of us felt threatened.

Mr Collaery, I would urge you to follow the good example set by your colleague Mr Humphries in consulting members of the Assembly when putting together ministerial advisory committees, boards and the like. It is something which we have appreciated and which we feel will give a far better and more bipartisan approach to such things.

The only other point I wish to make, Mr Speaker, is that work still needs to be done on crime prevention. I recognise that one of the terms of reference that Mr Collaery mentioned relates to strategies to prevent crime and offending, particularly for young people; but I think that crime prevention itself, as a broad concept, needs to have quite a bit of work done on it. I think that it is an appropriate matter to be dealt with by either a standing or select committee of this Assembly. I suggest that Mr Collaery approach me when he is ready and I shall again bring on my motion for a select committee on that matter. I would be happy to have the opportunity to discuss that with the Government, and with Labor and with Mr Stevenson, to try to get a broad approach on it.

Debate (on motion by **Mrs Nolan**) adjourned.

AUSTRALIAN CAPITAL TERRITORY (SELF-GOVERNMENT) ACT 1988 - OPERATION OF SECTION 65
Ministerial Statement and Paper

MR COLLAERY (Attorney-General), by leave: Mr Speaker, today, at around midday, our Government received a faxed copy of the opinion of Mr Jackson, QC. I believe that it should be made available immediately to the Assembly and I propose to table it at the conclusion of my remarks. To save time, and with the leave of members, I will simply refer to numbered paragraphs although I was going to read them into the record.

Mr Moore: No, read them into the record. It is such an important matter.

Mr Wood: Yes, just to see what they are.

MR COLLAERY: My Law Office has had a short time to look at the opinion and this is the Government's response at this stage. Mr Jackson was asked to provide advice to the Government on the following matters:

1. What types of bills, if introduced by members other than Ministers, would infringe s.65? In particular, are the Ainslie Waste Transfer Station Bill 1990, the Royal Canberra Hospital Bill 1990 and the Schools Authority (Amendment) Bill 1990 such bills?

2. If a bill introduced contrary to the provisions of s.65 becomes an Act, can its validity be challenged in a Court on the grounds of non-compliance with s.65?

3. If there is sufficient doubt as to the operation of s.65 and its justiciability to make it prudent for the ACT Government to request that the Commonwealth amend the ACT self government legislation to clarify the situation, if it is desired that the provision operates in the same manner as s.56 of the Constitution.

In short, Mr Speaker, Mr Jackson has advised that in his opinion the text of section 65 ought not to be read down and it is necessary to examine whether the object or effect of the proposals, not the proposer, if implemented, is to dispose of or charge public money of the Territory. Mr Jackson said, in particular:

> I regard the issue as one on which different minds may well take different views, and I do not think that there are any considerations of constitutional history, or of the legislative history of s.65, which are decisive either way. My view in the end is that the provision should be given its natural meaning, a meaning not restricted to proposals of a kind which would fall within a provision such as s.56.

So, in short, Mr Speaker, he differs from the opinion of Mr Brazil.

On this basis, Mr Jackson advised that a provision which merely prescribed or regulated conduct could not be characterised as having the object or effect stated in section 65(1). However, Mr Jackson has pointed out that there are questions of degree involved and I draw members' attention to paragraph 12 of the opinion.

Mr Jackson concluded that the Ainslie Waste Transfer Station Bill and the Royal Canberra Hospital Bill would necessarily involve the expenditure of Government funds and section 65 would apply in relation to the Schools Authority (Amendment) Bill. In that regard, Mr Jackson says:

> The effect of the Schools Authority (Amendment) Act 1990 would be to provide that the Australian Capital Territory Schools Authority might not close any primary school, high school or secondary college established or conducted by it in accordance with s.6(1)(a). As I understand the position the continued conduct of such schools and colleges would again inevitably involve the expenditure of public funds of the Territory and in my view falls within s.65(1).

In relation to the second question asked of Mr Jackson - that is, could the validity of a Bill introduced contrary to section 65 be challenged in court? - Mr Jackson has concluded, and I am sure that Mr Connolly will note this, that:

> ... non-compliance with s.65 does not result in invalidity of the enactment.

While I accept, as Attorney, that this is so, I would take the view that the Assembly should not disregard its obligation to properly comply with the procedural requirements imposed on us by section 65 of the Act simply because the issue would not be justiciable and, in that sense, I should say that Mr Jackson has agreed with the view put forward tentatively or certainly, I am not sure, by my colleague, Mr Connolly.

On the third question, Mr Jackson has advised that he thinks there is sufficient doubt about the operation of section 65 and its justiciability to request the Commonwealth to amend the self-government legislation to clarify the situation. He said in his conclusion:

> The terms of s.65 are such that their application to particular circumstances will give rise to questions of degree, and it seems undesirable that members of the Assembly, Ministers and the Presiding Officer of the Assembly should be required to deal with the issue by reference to criteria which are expressed with unnecessary generality.

I am aware that the Assembly Standing Committee on Administration and Procedures has requested the Chief Minister to seek the views of the Commonwealth Attorney-General on this matter. The committee may now wish to consider Mr Jackson's advice, which supports the Government Law Office advice, and, in particular, what amendments to section 65 the ACT Assembly should request the Commonwealth to make.

Finally, Mr Speaker, and not meaning to be presumptuous, I assume that you and your committee will give early advice to the Government as to whether you wish to include the opinion of Mr Jackson, QC, in any communication to the Commonwealth Government. Mr Speaker, I table the opinion.

MR BERRY (3.54): Mr Speaker, I seek leave to move a motion to bring on for debate Assembly business order of the day No. 8.

Leave not granted.

MR BERRY: I move:

> That so much of standing and temporary orders be suspended as would prevent order of the day No. 8, Assembly business being called on forthwith.

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

> That the question be now put.

Question put:

> That so much of standing and temporary orders be suspended as would prevent order of the day No. 8, Assembly business being called on forthwith.

The Assembly voted -

AYES, 8	*NOES, 8*
Mr Berry	Mr Collaery
Mr Connolly	Mr Duby
Ms Follett	Mr Humphries
Mrs Grassby	Mr Jensen
Mr Moore	Mr Kaine
Mr Prowse	Dr Kinloch
Mr Stevenson	Mrs Nolan
Mr Wood	Mr Stefaniak

Question so resolved in the negative.

MR BERRY (4.01): Mr Speaker, I seek leave to move that the statement made by Mr Collaery in relation to Mr Jackson's advice be noted.

Mr Collaery: He cannot do that.

MR BERRY: I seek leave.

MR SPEAKER: Is leave granted? There being no objection, leave is granted.

MR BERRY: Thank you, Mr Speaker. I move:

> That the Assembly takes note of the statement made by Mr Collaery in relation to the following paper:
>
> Australian Capital Territory (Self-Government) Act 1988 - Operation of section 65 - Opinion of D.F. Jackson, QC, dated 13 December 1990.

Mr Collaery: Wait a minute. What is going on, Mr Speaker?

Mr Moore: You just gave him leave to do it.

Mr Collaery: No, I did not. I said no.

MR SPEAKER: Nobody said no.

Mr Jensen: I heard you say no.

Mr Collaery: He heard me say no. I said no.

MR SPEAKER: Order! I am afraid I did not hear that.

Mr Kaine: It has not been granted.

Mr Collaery: Mr Speaker, if you ask us, we will repeat it.

MR BERRY: It is a bit late now.

Mr Connolly: You have to pay attention, people.
Mr Kaine: So does the Speaker.

MR SPEAKER: I will take advice on that situation.

The situation stands. I did not hear any call in the negative and - - -

Mr Jensen: There was one.
Mrs Grassby: There was not any. There was none at all.

MR SPEAKER: I did not hear it and, if you wish to make a point on a call such as that, for goodness sake speak up. I did not hear it. The position now is that Mr Berry is entitled to move the motion.

MR BERRY: Thank you. Mr Speaker, I move:

> That the Assembly takes note of the statement made by Mr Collaery in relation to the following paper:
> Australian Capital Territory (Self-Government) Act 1988 - Operation of section 65 - Opinion of D.F. Jackson, QC, dated 13 December 1990.

MR KAINE (Chief Minister) (4.02): I move:

That the question be now put.

Mr Moore: Normally the person who moves a motion speaks to it. He is still on his feet.

MR KAINE: He has moved a motion. I am moving that the question be put.

Question put:

That the question be now put.

The Assembly voted -

AYES, 9	*NOES, 7*
Mr Collaery	Mr Berry
Mr Duby	Mr Connolly
Mr Humphries	Ms Follett
Mr Jensen	Mrs Grassby
Mr Kaine	Mr Moore
Dr Kinloch	Mr Stevenson
Mrs Nolan	Mr Wood
Mr Prowse	
Mr Stefaniak	

Question so resolved in the affirmative.

Mr Berry: I raise a point of order, Mr Speaker. During the lead-up to that vote and discussion of leave being granted to me to move a motion, Mr Kaine, referring to you, said, "So does the Speaker".

Mr Kaine: He should listen. That is what I said. I repeat it. He is the Speaker.

MR SPEAKER: Order!

Mr Berry: Mr Speaker, that implied that you were not paying attention to your duties, and I think Mr Kaine should be required to withdraw that.

MR SPEAKER: I will review *Hansard* and take an opinion on that, Mr Berry. I do not recall exactly what was said at the time. The question now is: That the motion moved by Mr Berry be agreed to.

Question resolved in the negative.

MINISTERIAL ABSENCES
Discussion of Matter of Public Importance

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

> The irresponsible attitude of the Liberal Ministers, Mr Kaine and Mr Humphries, in leaving the ACT and their duties for an excessive period during the recess.

MR WOOD (4.07): Mr Speaker, it is not surprising, I suppose, that the Chief Minister, Mr Kaine, and the Liberal Minister, Mr Humphries, are going away. After the experiences of just a moment ago, it is quite understandable. It is not just the events in the last 10 minutes but the events of the last year that they want to get away from and forget. It is only a few days since we had the note about the first anniversary of this Government. It was interesting that at the time there was no statement - none that I ever found - of the Government's achievements; they did not have anything that they could come out with and say to the community, "This is our record".

Mr Humphries and Mr Kaine would like to go away and forget the internal disarray that they now find themselves in, as evidenced in only the last few minutes. They would like to go away and forget their inability to provide leadership in this parliament and in the broader community and their inability to provide a direction for the ACT. They would like to go away and forget the whole unhappy mess that they are in, whether it relates to schools, or hospitals, or roads, or the inability, for example, to get human rights legislation up, or the trouble with their budget, which is already wrong. A whole host of things have gone astray and they would like to forget about them. We witnessed the events of last Thursday when they could not even sustain their numbers on the floor of this Assembly. Yesterday we saw the Chief Minister effectively censured by one of the committees of this parliament, a committee on which the Government has a majority of three to one.

We have this continuing row between Mr Humphries and Mr Collaery; the row, according to the Chief Minister, that is not a row, and yet we can all read the paper and watch the television and see what is going on. We have the continuing row, evidenced only moments ago, between the Chief Minister and the Speaker. A never ending range of tensions, jealousies and incompetence emerges. I wonder how much the members opposite enjoy their weekly meeting, if it is weekly. I wonder what they think as they walk into their joint party room.

Mr Kaine: It is good fun, Bill.

MR WOOD: It must be good fun. I think there are a few other descriptions to apply to it - quite heated fun.

Mr Collaery: It makes for good government. We do not stifle debate.

MR WOOD: The tensions make for good government, says Mr Collaery. He stands up in that room and rubbishes the Minister for Education. He says that he cannot make his own decisions; that he is led by his bureaucrats. That is what they want to go away and forget. They want to put all that behind them. They cannot fix the problems; they just want to forget them. So it not surprising that they want to go away. But it is not acceptable that they should go away. It is totally unacceptable.

Let us look at this very serious situation they are now creating. They are going away for upwards of two months. Two Ministers are going to be away for eight weeks. It is unusual, I would think, in any parliament for one Minister to be away for so long. I am not aware of anywhere where that has happened. Even in the disreputable Queensland Parliament nothing like that ever occurred.

Mr Jensen: They never used to sit, Bill.

MR WOOD: They sat. Ministers simply do not go away for eight weeks. It is unheard of.

Mr Humphries: Who is going away for eight weeks?

MR WOOD: How long are you going away for?

Mr Connolly: Seven weeks.

Mr Humphries: I am going away for six.

MR WOOD: Six weeks and seven weeks. It is only six weeks and seven weeks, they say. So that is all right; seven weeks and six weeks is great. They think that is quite justifiable.

Mr Kaine: Like Gareth, you are overstating the case just by a margin. This is this marginalisation that Michael was telling me about.

MR WOOD: I was quite keen to get your interjections on that. It is rare for Ministers to take such long holidays. I do not know. Perhaps when they answer this they can give some precedents of how long Ministers in the Federal Parliament or State parliaments take on holidays. I would doubt that it is anything like six and seven weeks respectively. It is also rare for Ministers to be so contemptuous of parliament, to be so uninterested in their own portfolios as to absent themselves for such an extended period. I would have thought that a Minister would be keen on what he is doing and would want to attack the job. It says a lot about their attitudes. These are two Liberals,

so perhaps it says something about the Liberal Party attitude to the job. It is not just one Minister who is going away, and that is a rarity; it is two Ministers. Each will be away for that extended period. The problem is not simply doubled; it is compounded, many times over.

This raises an interesting question. We all knew that Mr Kaine was going away. That has been known for quite a long time. We knew it. I suppose members on that side of the house knew it and Mr Humphries knew it. But the question is this: did Mr Kaine know that Mr Humphries was going? Did Mr Humphries come to Mr Kaine and say, "Mr Kaine, Chief Minister, I am planning a visit to Paris. How do you think that is going to fit in with the Government's agenda and your plans?". Did Mr Humphries do that? It seems that he did not. We may get a denial here, and I would be most interested to hear it; but it seems that Mr Humphries acted on his own behalf. It seems like it is more of Mr Humphries' inept planning, once again.

Mr Humphries: It is not true.

MR WOOD: It is not true? Well, that is fine. In that case it is even more inept and incomprehensible because you knew what was going to happen; you knew that two Ministers would be away at the same time. I think that is worse. You knew it and you still went ahead with it.

Once again the Minister for Education has failed to appreciate what is needed in a situation. As he has demonstrated in the last year in education, he cannot assess a situation and respond accordingly. In the case of both Ministers, we seem to have a priority for personal interests over public duty. I suppose that, after the events of just a short time ago today, and the events of recent weeks, we should not be surprised at this. We should not be surprised at the farce that passes for government in this Territory, and that is what we have. We have a farce. I regret that because I am part of this parliament, though certainly not in the Government. Their actions, as the Government, are to the detriment of this Territory. Half the Cabinet is going to be away for six and seven weeks - half the Government. There will be no Cabinet meetings in that time.

Mr Humphries: Which will be great.

MR WOOD: Which will be great. Again you demonstrate your attitude to this. That is not the attitude that I have, or anybody on this side of the house has. What Mr Humphries does not seem to realise, in his ignorance, or his contempt, is that for seven weeks the Government of this Territory stops. There is no Government.

Mr Collaery: What utter nonsense. That is legally wrong.

MR WOOD: That is interesting. I will say this: the Administration will continue because you have Ministers running departments, but you have no Government because you have no Cabinet that is meeting. If you cannot make that clear distinction you should be ashamed of the position you have occupied for so long in ignorance. The Government stops for six to seven weeks, and that is absolutely unacceptable. Again, by their actions, these Ministers are bringing this Assembly into disrepute. It is no wonder the ACT community has lost respect for the Government. It is not surprising that the value of self-government, the need for self-government, has not yet been conveyed to the community - because of your actions.

Mr Collaery: What are you doing for self-government now, Bill?

MR WOOD: I will be here. I will be working. I will take a few days off and that is it - and I am an Opposition member. Mr Collaery interjects, but he will not be holding any Cabinet meetings. There will be no decisions made, other than the purely administrative processes of departments, and he tries to say that we have a government. You are truly ignorant. It is about time you knew a little more than you do about parliament and about government. I regret the fact that this parliament, because of this Government, has been unable to accept the leadership role that it should have in convincing the ACT people that we need self-government.

They claim government will be continuing; but they demonstrate their ignorance, led by Mr Kaine when he cannot make up his mind about what happens while he is away. On the one hand, in answer to one question, he said that no public servant could be sacked; Mr Collaery cannot get his hands on them. Later on, in the same answer, he softened that by saying that he had confidence about the safety and security of public servants. He cannot seem to read the Act under which we operate. On the one hand he said no to Mrs Grassby's questions about decision making in all areas of Government policy. He said that there will not be, in his response. But the Act clearly specifies that the Deputy Chief Minister does have some powers in that respect. So you do not know how the Government should go. You do not know the technicalities, and you do not know the principles that have long applied.

The Chief Minister should have acted in this matter long ago. He should have done two things: first of all, he should have said to himself, "I think three weeks is a reasonable period of time that I, as Chief Minister, can be away". He should have contained his holidays simply to three weeks. I believe that that is an appropriate period of time. Secondly, when he learned that Mr Humphries was going away, he should have said quite clearly, simply and

bluntly, "No, not while I am away". If Mr Humphries had persisted, he should have made it quite clear that he would not stay as a Minister if he was going away at the same time. That is how important this issue is.

We seem to have some trouble in getting this ignorant mob opposite to understand the simple, long-established procedures that apply. Mr Humphries should not go away and remain a Minister. We have seen a clear lack of leadership by the Chief Minister of this Territory. By going away for so long himself and by condoning Mr Humphries' trip, he has displayed no judgment and very, very weak leadership; in fact, no leadership at all. He is not in control of the situation, as we have seen so often in this chamber in recent weeks. He is not in control. We do not have a Chief Minister with any sort of authority at all. We have a Government that is going from crisis to crisis, outside this parliament and inside. It is time the Chief Minister took control of events if he wants to claim that title.

These Ministers do not deserve to go away. They have made a mess of the last year. There is one thing that they should do: they should stay home and do their homework. It is about time that Mr Humphries got on top of the situation in education and in health. He has never been well briefed; he has never known the answers to questions. He should stay here and try to get on top of things so that perhaps the coming year will not be as disastrous as the last year. Mr Kaine, likewise, should stay here and somehow try to get together this strange coalition that he has, so that it functions in some formal, proper way and in an efficient way. That is what they should be doing. They should have their heads down over the holiday period. Get on top of it. Do your job. It is the one you are paid for; it is the one you worked hard to get. It is a shame that people do not work hard once they get there.

The Government is in a mess. Mr Speaker, we can look back and see what a bad year it has been for the Government and for the ACT. This Government does not need to make the same sort of mess again in 1991. We know that things will change in 1992, but let us see whether we can get some improvement in the coming year.

MR COLLAERY (Deputy Chief Minister) (4.21): Mr Speaker, I am surprised that Mr Wood would choose to waste the Assembly's time with this matter of public importance. I am also surprised, though I am new to politics, at how readily Mr Wood would slip a boomerang or a potential boomerang into the political agenda of this Assembly. There may well be times when members of any future government - not in any short future time - may have - - -

Mr Wood: Half the Cabinet going away? You are so greedy to be Chief Minister that you will accept it.

MR SPEAKER: Order!

MR COLLAERY: A future government may have commitments of one nature or another and Mr Wood's party may choose to regret the propositions that have been put forward.

Mr Wood: We would have more responsibility than to send two people away.

MR SPEAKER: Mr Wood, order! Mr Wood, I think you had the floor for your time.

Mr Wood: And he never stopped interjecting and you did not pull him up.

MR SPEAKER: Order! Not at that volume, Mr Wood.

Mr Wood: You did not pull him up.

MR SPEAKER: No-one can be heard over you, unfortunately. Please desist.

Mr Wood: Volume has nothing to do with it. If I am born with that voice, that is nature.

MR SPEAKER: Just turn the volume down a bit.

Mr Wood: You never pulled him up once.

MR SPEAKER: The volume was not objectionable.

Mr Wood: So it all depends on volume. I can whisper, can I?

MR SPEAKER: Mr Wood, please! Not on our last day.

Mr Wood: I do not think it is balanced. I know that we have had debates about this before. If he interjects on me, I interject on him.

MR SPEAKER: Mr Collaery, please proceed.

MR COLLAERY: Mr Speaker, the rhetoric that Mr Wood wishes to continue with is in marked contrast to reality and the facts. The Australian Capital Territory (Self-Government) Act, section 39 subsection (2), clearly indicates that the exercise of powers of the Executive is not affected because there are vacancies in the membership of the Executive. It also indicates that the members of the Executive are the Chief Minister and such other Ministers as are appointed by the Chief Minister. It goes on in section 44 to indicate clearly that in the absence of the Chief Minister there is - - - *(Quorum formed)*

The legislation clearly indicates that the Executive can meet and can have Cabinet meetings until Mr Humphries leaves, and then, from shortly before Christmas Day and through January, there will not be meetings of Cabinet. Mr Wood well knows that in the summer recess few of our parliaments meet, except in an emergency, and even fewer of

our Cabinets meet during that summer month of January. Mr Wood says that it is a very long period. It is not really the period that is involved; it is really what is on. The fact is that it is our summer month in this country and, please God, there will be no emergency and there will be no need to exercise any of the powers to recall the Assembly and bring people back from overseas or anywhere that may be necessary.

I note that Ms Follett, the Leader of the Australian Labor Party Opposition in this chamber, was absent from Australia from 28 October to 10 November during two of the busiest, most contentious weeks of our year in this Territory. They were the weeks when the school groups were fighting like blazes to press their causes. They were the two weeks when those groups were clamouring for assistance from this Leader of the Opposition. Where was she? She was in the United States of America during those two acute, important weeks for the agenda of the Australian Labor Party.

So we are going to allow two of our very hardworking Ministers leave in that summer month. Big deal! What a fatuous MPI! I thought, Mr Speaker, that Mr Wood did not do himself justice with his last matter of public importance in the chamber this year. How fatuous it is. Mr Speaker, there is legislation on the table today that is very important - the keep-the-peace legislation, the .05 blood alcohol legislation and other legislation that must be passed - yet Mr Wood seeks to delay debate on these very important matters. Further, there are important committee reports that we need to get through.

Why has this MPI been lodged today? Its effect is to engender further negative press for politicians in general. Mr Wood accepts now the appellation "House of Farce". I very much regret that Mr Wood, as a member of this chamber, sees fit to accept that noxious appellation. This is democracy. This is a house for the delivery of democratic decision making. If Mr Wood wants to say that it is a house of farce and Mr Berry wishes to again hold up that obnoxious poster, so be it. You should be aware that some of that rubs off on us all.

What you have done today, Mr Wood, through you, Mr Speaker, is to once again tell the public that politicians are somehow uncaring; that they are self-seeking; that they cannot have holidays. That is the sort of prejudice and perception that we politicians fight against. You well know it. So, you fed the vultures again, Mr Wood, through you, Mr Speaker. Good on you; you fed the vultures again. You were not generous enough to realise that, for better or worse, ideology apart, Mr Humphries and Mr Kaine worked extremely hard in the last session of the Assembly. They have been under intense personal strain. Mr Humphries had to gird his loins every second night at school protest meetings. Let me read into the record a statement by Mr Whalan on 26 April 1990 in this house. Mr Paul Whalan said:

> I wish Trevor Kaine well in his leadership of the Alliance Government. The Chief Minister is an honourable man. I know that he will face the difficult decisions which confront him with resolution and a sense of decency.

He went on to place on record his admiration of the manner in which Gary Humphries from the Liberal Party had approached his ministerial duties. Mr Whalan said, prophetically:

> I am conscious that he is sitting on the hottest set of financial and administrative challenges and I do not envy his role over the next couple of years.

I cannot think of anything more churlish, Mr Speaker, than someone across the way here denying those two gentlemen the leave they so richly deserve. For better or worse, on your politics, ideology apart, it is very churlish of you. Your own party leader, Rosemary Follett, deserted this city to go on a student tour - on a political exchange program - for two weeks in two of the most crucial weeks that this Territory had. She left town for two weeks. That was a highly important time for the many residents of the ACT who looked for guidance from the ALP on the school closure issues.

Mr Wood: How facile.

MR COLLAERY: It is not facile, and you know it. Ministerial leave, with acting arrangements, is a common feature of Australian parliaments. Mr Wood has not provided evidence to justify his assertions. There were no facts, only good well-rounded rhetoric, in what he said. There were no facts there. We are terribly pressed for time on this side and Mr Duby has to finish his Christmas cards. We are so busy here today that we are not in a position to check to see how other politicians went on leave during the last few years around the country. What a miserable item to put on our diet today. What a miserable little item to show us up, to give the *Canberra Times* another chance to paint us down. Can Mr Wood suggest a better time to go on leave than the month of January? Can he?

Turning now to the acting arrangements, I assure you, Mr Speaker, that Mr Wood need lose no sleep whilst Mr Kaine and Mr Humphries are away. This Territory will be competently managed on a caretaker basis by Mr Duby, as Acting Minister for Health, Education and the Arts, and me as Acting Chief Minister by process of section 44 of the Act.

It is well known that there are days occasionally when Ministers are out of town. Sometimes there is only one Minister here. Big deal! Mr Speaker, for the last umpteen years this Territory has been governed by absentee Federal Ministers. Few of them have lived in the Territory and nobody has been around when we have had a real problem at short notice.

Mr Speaker, I cannot see anything in Mr Wood's matter of public importance that should interest anyone but people opposed to self-government and politicians generally. Sadly, tragically, Mr Wood has inadvertently - he is a man of honour himself - fed that anti-politician line. He has done it today and it is regrettable. It will get a headline, no doubt. You have done it. You will paint up Mr Kaine, who has worked pretty hard this year, and Mr Humphries, who has been the target all year, as slacking off and having a non-deserved holiday. Mr Speaker, that was a churlish proposition. Ideology apart, I trust that we do not have a debate like this again in the Assembly and start picking on each other for taking a break.

Mr Speaker, I want to thank Mr Wood for one thing and to issue a challenge. I want to thank Mr Wood because he has pointed up again this Government's call to his Federal Labor colleagues for an increase in the size of the ministry. Mr Speaker, that was the only positive side of the MPI. Any concerns that Mr Wood has - his fellow ALP people may get up and address them now - will be met if they would just care to comment now as to whether they would like to talk to any of their Federal Labor colleagues about increasing the size of the ministry forthwith, tomorrow, to cure the problem you have perceived.

Mr Moore: We have a resolution of the Assembly.

MR COLLAERY: Certainly, Mr Speaker, we have a democratic resolution of the Assembly, as Mr Moore aptly says. It has not been acted on by those great democrats over there in the Federal Labor Party Cabinet. Shame on them. Mr Wood is keeping quiet at the moment. I share his embarrassment, too, for their absolute denial of democracy, their disgraceful treatment of a proper motion of this Assembly. Mr Speaker, I am sure that Mr Wood will now go and have a quiet chat to his Labor colleagues in the parliament who have delayed for several months even an answer on this Assembly's resolution on the size of the ministry.

What today's debate points up is the manner of that Federal Labor Party over there, its disgraceful, cavalier high-handed treatment of this Territory, not only on this but on financial matters as well. Mr Speaker, considering the hard work we have all put in here, it ill behoves Mr Wood to put on this MPI just before this Christmas season of peace and goodwill. I regret very much the headline it will probably attract, because it will reflect on all of us.

Mr Wood: How pathetic that was.

MR SPEAKER: Order, Mr Wood!

Mr Wood: No, I have to say how pathetic that response was.

MR SPEAKER: Mr Wood, please!

Debate interrupted.

ADJOURNMENT

MR SPEAKER: Order! It being 4.35 pm, I propose the question:

That the Assembly do now adjourn.

Mr Collaery: Mr Speaker, I require the question to be put forthwith without debate.

Question resolved in the negative.

MINISTERIAL ABSENCES
Discussion of Matter of Public Importance

Debate resumed.

MR BERRY (4.36): I rise to speak on this matter, not out of joy at the prospect of government in the ACT being abandoned by Ministers who have taken on the job but to point out to the community the propriety of Ministers who have committed what Mr Collaery describes as atrocities on the community. I guess there will be some apprehension now that the destiny of the Territory in the short term, six to eight weeks, is going to be left in the hands of Mr Collaery. Mrs Grassby mentioned that Mickey Mouse would be receiving a Collaery watch for Christmas. I thought I needed a similar sort of thing to send off to Mickey Mouse. I did not know where to get one; so I got myself a Mickey Mouse watch and thought, "If I can get the Mickey Mouse changed to Bernard Collaery, perhaps Mickey Mouse might appreciate that". However, I could not think of a jeweller who would be prepared to deface the watch.

Mr Speaker, the community will be concerned about the future of government in the Territory and what is going to happen to the Territory. The people who are described by the *Canberra Times* as contributing to the "House of Farce" will now be left in charge of the cash register. The only two Ministers who do not appear on this poster - one would expect that they do not appear on this poster because they have a measure of credibility - are going off on holidays, leaving the Territory in the hands of the two who do appear on the poster. I, for the life of me, cannot understand

why any Minister who felt at all responsible for his duties in the Territory would, in all conscience, leave the Territory in the hands of these people. From the Labor Party's point of view, Mr Speaker, there is some political advantage in that because it would be to our advantage to see the Government making all of these mistakes, but one cannot sit back and just take advantage of it without having some concern for the future of the ACT.

We know that Ministers Duby and Collaery are not particularly interested in the future of the ACT, but one would have hoped that the Liberal Party members, who describe themselves as the other major party in Australia, might have some concern as well and look as though they are prepared to work to protect the Territory. Clearly, they do not care either. So, Mr Speaker, it is a serious matter for the Territory that the management of the place is being left in the hands of these two Ministers.

One has to look at the performance of the Ministers who are going on holidays. Mr Humphries has had the blowtorch on his belly of late and I can understand why he might want to get out of the Territory; but he is, after all, responsible for the greatest damage that has been done to the ACT in recent times. He is the one who is responsible for the destruction of the health system and the education system. If we could get a guarantee that he would stay away it would be fine, but he is the one who is going to have to wear the responsibility. He ought to be here to continue to receive the pressure from the community for the damage that he has done to those very important facilities - education and health.

The Chief Minister has demonstrated what I would describe as very weak leadership in this matter. It has been aptly said by Mr Wood that the Chief Minister did not seem to have any control over the situation and his Health Minister is able to romp off on holidays without much association with him. In fact, it has been said that the Chief Minister did not really know that he was going to head off until the tickets were bought. I suspect that that will not be accepted well in the community. Any Chief Minister who is not able to exercise more control over his ministerial colleagues can aptly be described as weak and, dare I say it, incompetent.

A Labor administration would never allow such a thing to occur. Whilst the Government members opposite are keen to reflect on the few months that Labor was in office, they should also reflect on the fact that it was on the job all of the time and provided a great deal of support for the community in those very early days of self-government here.

Mr Speaker, it is most important that we draw attention to the fact that these Ministers are going on holidays, because I think the community really needs to consider - if they need any more exposure of the performance of this

Government - what they will do at the next election. This is just another example of the contempt held by these Government members opposite.

It has been said by all sorts of experts that the Residents Rally will not get elected again, and Craig Duby will not get elected again. One could expect that that would be a reasonable outcome. I think the Liberal Party people might be in a bit of trouble, now that they have abandoned the ACT as well. It has been clearly shown that they do not care. I do not know whether Bill Stefaniak is going on holidays or not.

Mrs Nolan: No, he will be here.

MR BERRY: Well, Bill Stefaniak will be here. I suppose he will be keeping his eye on any of those youngsters who might play up around the place. He might call the police and get them all sorted out if they ride their skateboards in the shopping centres, and that sort of thing. Bill will not be having much to do with the important matters of judgment, but I bet that while he is here he will be watching Bernard Collaery very nervously because he will not know what Bernard is going to do next.

Mr Wood: He always does, anyway.

Mr Collaery: He will be watching me. He will be hanging over me, do not worry.

MR BERRY: He will not be able to go to the Residents Rally policy and be able to look at it and judge with any certainty that that will be a guide to what will happen in the future. There will be no guide. The form guide is not particularly relevant and, of course, there is no guide for Mr Duby. It will be an interesting time for the Territory, I think. Many people in the community will be nervous about further knee-jerk reactions to the needs of the Territory. Mr Collaery has become well known for that.

I have to keep going back to my earlier statement that the Chief Minister and Mr Humphries just do not care. How could they care if they leave the short-term future and perhaps the long-term future of the ACT in the hands of these two Ministers? I know that the Deputy Chief Minister has said in the past that these Ministers get 100 per cent for effort, but he never talked much about their ability or the quality - - -

Mr Connolly: They try hard.

MR BERRY: They try hard, but he has never come out and said that the results of their activities have been up to scratch. Having been that critical of his Ministers, it is something of a doublespeak for him to leave the Territory in their hands. Mr Speaker, I wish you well in the six to eight weeks whilst your two Liberal colleagues are out of Australia. I know that it is going to be a very testing

time for you. Mrs Nolan, I am sure, will be nervous. Perhaps she might put some distance between herself and this place, just to relieve herself of some of that responsibility. But you have broad shoulders and I think you are going to need them.

MR HUMPHRIES (Minister for Health, Education and the Arts) (4.46): Mr Speaker, I really felt quite sorry for poor Mr Wood, who obviously had had the baton passed to him to speak in this debate and obviously felt rather uncomfortable about the whole thing. I fully sympathise with him and I can understand his discomfort. However, I have to say that the Government understands that it is important to provide, in the course of these next few months, for proper administration of the Territory and, of course, that is what the Government has done.

I am amused and bemused by the Opposition's attitude. It has been hypercritical of all Ministers in this Government, I suppose, but of me in particular; yet it seems to think that my absence from the Territory will be a major blow to the administration of health and education and the arts. That is a very strange attitude. I just do not understand how they can come to that conclusion. I would have thought they would be grateful that I would be away, but apparently not.

Mr Wood: You did not listen to my advice. I said, "Get in here over Christmas and do some swatting".

MR HUMPHRIES: Mr Deputy Speaker, could I have some order?

MR DEPUTY SPEAKER: Order, Mr Wood!

MR HUMPHRIES: Thank you, Mr Deputy Speaker. I would have thought that those opposite would be grateful to see a little absence on the part of some Ministers in the Government, but obviously that is not the case.

Mr Duby: They just cannot get enough of you, Gary.

MR HUMPHRIES: They just cannot get enough of me, obviously. I will leave Mr Wood a large picture of me, if he likes, and he can look at it while I am away. Mr Deputy Speaker, Mr Wood wants to raise the tone of the Assembly. He wants to make the Assembly a place worthy of more respect by the citizens of the ACT. I do not think that the muckraking which has gone on today would serve that purpose by any means, and I certainly do not think that any comments that have been made by him would make people think more highly of this Government or this Assembly.

The argument, it seems to me, Mr Deputy Speaker, is not about whether Government members are away for six weeks; it seems to be about whether they are away, for example, for any longer than other Government Ministers are away from other places. The times that Ministers spend away from their desks, recuperating and recharging their batteries, is not a matter for public information.

MR DEPUTY SPEAKER: Order! I do not mind some talking, members, but can you keep it down? You are starting to interfere with the speaker. Continue, Mr Humphries.

MR HUMPHRIES: I happened to speak to some other Ministers in Adelaide on Friday about their plans for holidays over the summer break, and a number of them were going away for a number of weeks. We did not actually compare periods away; but other Ministers, I know, were going away for four or five weeks and those Ministers certainly - - -

Mr Connolly: Is half of any Cabinet going to be away?

Mr Wood: Government shutting down?

MR HUMPHRIES: Mr Deputy Speaker, please! They were going away for four or five weeks. The question really is not whether either I or the Chief Minister should go away for six or seven weeks; it is whether we should go away for the one or two weeks more than perhaps other Ministers might go away in other places in this country. I hardly think it makes much difference and I am not prepared to quibble about that. I might put on the public record for my own sake, Mr Deputy Speaker, that I have not taken any leave, except for the few days between Christmas and New Year, since I entered this Assembly in May of last year and I do not plan to take any more, except perhaps for the same period next year.

Mr Stevenson: And you spend a few Sundays in here, too.

MR HUMPHRIES: Thank you, Mr Stevenson.

Mrs Grassby: Don't we all?

Mr Wood: So do lots of people.

MR HUMPHRIES: Perhaps they do, but the fact is that I think that at the end of the day the period of leave that I take over the term of this Assembly would be no greater than that taken by anybody else in this chamber. I would like to compare notes with people who might quibble with that point when the end of this Assembly comes around.

I have to say that it is also churlish of those opposite to criticise us for going overseas. At least I can say, Mr Deputy Speaker, that no Minister of this Government ever went overseas while the Assembly was sitting, which is more than can be said for a person opposite when that person was in government and was a Minister.

The Opposition says that it is a bad time to be away. I say, as I think Mr Collaery said, that there is no better time to be away from Canberra than in January. As everybody who has lived in this town for any period of time knows, the fact of life is that Canberra, of all places in this country, closes down over the whole of January. Schools are closed during that period and hospital activity is not intense.

Mr Wood: You set yourself a very low standard.

MR DEPUTY SPEAKER: Order, members!

Mr Wood: No, he sets himself a very low standard.

MR DEPUTY SPEAKER: Order, Mr Wood! Let us not have this cross-chamber banter while someone else is speaking.

Mr Wood: It is not banter.

Mr Duby: No, it is dickering.

MR DEPUTY SPEAKER: Dickering, banter, whatever; let us just keep it down.

MR HUMPHRIES: Mr Deputy Speaker, as I said, January is not a time when Canberra is known for being vibrant and alive. It is a time, as I said, when schools are not in operation and when hospitals are usually at a fairly low level of activity. That has been the case every year for as many years as I can remember and I think it is hard to imagine a reason for a full complement of four Ministers to be sitting at their desks, peering around and watching for disasters to happen, because they do not generally happen at that time of year.

The Opposition says that we should not take time off. That is pretty rich, coming from the Opposition, Mr Deputy Speaker, because the Opposition has had the whole year off. They have sat at those desks and have failed again and again to discuss real issues of real importance to this Territory. They have failed again and again to raise and discuss the matters which are actually important to the administration of this Territory. Now they say that because two Ministers are going to be away over Christmas things are going to fall by the wayside and there are not going to be people here to run the Territory. What an ignorant and ridiculous view. They have failed in these last 12 months to produce anything that I would call decent and to be expected from any reasonable Opposition.

Mr Stevenson: Labor Opposition.

MR HUMPHRIES: Labor Opposition - I correct myself. They have failed to produce an alternative budget, they have failed to come up with alternative policies to the policies they decry in this Government, and they have failed to come up with alternative cost savings to meet the obvious budget problems being faced by this Territory.

They are the ones, Mr Deputy Speaker, who need to spend the time over summer sitting down at their desks and doing a bit of work on the future of this Territory, trying to work out what it is that they think the Territory ought to be doing and then spelling it out to the electorate, not keeping it to themselves. I remind those opposite that

they have criticised again and again almost every initiative taken by this Government in the last 12 months, but where are the alternatives? Do some homework, produce the evidence of careful thought of your own on these problems, spell out what you would do, rather than criticise all the time. Make productive use of the next six or seven weeks when Mr Kaine and I are away and we will be pleasantly surprised when we get back as to how well you have done.

DR KINLOCH (4.54): Mr Deputy Speaker, I wish to thank Mr Kaine and Mr Humphries, as they go away, for undertaking some very difficult burdens on behalf of us all. They will miss Leo McKern in *Boswell for the Defence* and they will miss a wonderful season of movies at Electric Shadows in January. I commend the new poster to all members. They are going into temperatures of minus 20, minus 15 and minus 10, to suffer on our behalf. I think we should commiserate with them. They have our best wishes as they leave on these well deserved holidays. Indeed, we should send them postcards to show how beautiful it is here in Canberra and to thank them for putting up with the hardships of overseas.

MS FOLLETT (Leader of the Opposition) (4.55): Mr Deputy Speaker, there are really two issues involved here. In bringing up this matter today, Mr Wood was reflecting the view of the Labor Party that it is indeed a matter of public importance. Mr Collaery did not seem to think so and Dr Kinloch certainly did not seem to think so, but I put it to you that it is indeed a matter of public importance. There are two issues. The first is the numbers of Ministers who are going. I feel obliged to spell it out for Government members opposite, who have missed the point entirely.

Mr Moore: Because of their IQ.

MS FOLLETT: Yes. The first issue is the number of Ministers who are leaving not just Canberra but Australia for a quite lengthy period. We are in fact seeing half of the Cabinet disappear.

Mr Kaine: And there are only two going. That is the other side of it; only two.

MS FOLLETT: Mr Kaine again demonstrates his remarkable grasp of mathematics when he points out that two is half of the Cabinet. I agree; this is the difficulty.

Mr Kaine: Yours is not so good either. Will I tell you what the little brackets around the numbers are for?

Mr Wood: It means that there is no Cabinet.

MR DEPUTY SPEAKER: Order, members!

MS FOLLETT: Thank you, Mr Deputy Speaker. I will say it again: half of the Cabinet is leaving Australia for a period of up to two months, as I understand it. I do not believe that that situation would exist in any other parliament in this country. In drawing attention to the fact that half of the Cabinet is departing, Mr Wood has quite rightly pointed to that as a matter of public importance.

The second issue involved is the manner in which they are going. Repeatedly in question time over the past several weeks the Chief Minister has been asked about the leave arrangements. He has never given a full answer on that matter. In fact, when he was first questioned about it, he obviously had no idea whatsoever that Mr Humphries was planning a long holiday. So the manner of the Ministers' departure is also a bit of a worry.

We saw today in question time, now that we know that two of the Cabinet will be absent, Mr Kaine totally unwilling to advise this Assembly of what ministerial arrangements will apply in the absence of half the Cabinet. I believe that that is also an unprecedented approach to this issue; it is an approach that I find quite reprehensible. Mr Kaine eventually had dragged from him the fact that Mr Duby would be acting as Minister for Health, Education and the Arts.

That brings me to the next major difficulty and the next major issue which does indeed make this a matter of public importance, and that is not just who is going but who will be left behind. That is probably the issue that most worries the ACT community. Mr Kaine has most reluctantly let us know now that Mr Duby will be acting as Minister for Health and Education in particular. This is a Minister who has proved himself unable to abide by the law, who ought to have been sacked, as Mr Kaine well knows, and now, at a period of such great sensitivity in those portfolios, he will be taking charge of them. I believe that that fact alone is enough to engender in the community the greatest disquiet about the absence from Australia of both Mr Kaine and Mr Humphries.

Mr Collaery: I raise a point of order, Mr Deputy Speaker. I am not prepared to let go into the *Hansard* of this house a statement that a Minister is not prepared to abide by the law. If Ms Follett wants to withdraw that and correct it and be explicit about a law, she should do it. But she should not make that statement which is in futuro and implies that this Minister cannot abide by the law. It must be withdrawn, Mr Deputy Speaker. It is improper.

MS FOLLETT: Mr Deputy Speaker, my statement was that he had proved himself incapable of keeping to the law.

Mr Collaery: That is my very point, Mr Deputy Speaker. It is not specific. It is a scandalous allegation.

Mr Moore: Well, be specific.

MS FOLLETT: I will be specific. I have been asked to be specific, Mr Deputy Speaker.

MR DEPUTY SPEAKER: Yes, that might help, Ms Follett.

MS FOLLETT: Mr Duby has a conviction for refusing to take a breath test.

Mr Collaery: That is better.

MS FOLLETT: The Minister for transport has been convicted of refusing to obey the laws for which he is responsible.

Mr Jensen: A law, and he is not even responsible for it.

Mr Collaery: I take a point of order, Mr Deputy Speaker.

MR DEPUTY SPEAKER: Yes, I would ask you to correct that, Ms Follett. A law.

MS FOLLETT: A law.

Mr Collaery: Well, is she going to withdraw it, Mr Deputy Speaker, or are we going to assist her to correct her own script? They have gone on about this all year.

MR DEPUTY SPEAKER: She has withdrawn it, I understand, Mr Collaery.

MS FOLLETT: Mr Deputy Speaker, the other Minister who will be left in charge would not engender any confidence in the Canberra community and I think, again, that it is a matter of grave disquiet that it will be Mr Collaery who will be acting as Chief Minister. Mr Collaery, whose glee reached almost indecent proportions when he spoke earlier in this debate, I believe is one of the most mistrusted and discredited members of this Assembly. That is because he has not upheld at any point the platform on which he went to the ACT people.

Mr Collaery also seemed to derive some comfort from the fact that Mr Paul Whalan, in his departing speech in this Assembly, had pointed out that he felt that Mr Kaine and Mr Humphries were the only two competent Ministers on the Government benches. I would say that that is further evidence, if any evidence were needed, that leaving behind the other two Ministers is surely a grave mistake by Mr Kaine. I believe that in quoting Mr Whalan on this subject Mr Collaery was hoping to score some point, was hoping to find something good somewhere that someone had said about him. Of course, he was unsuccessful on this occasion, as on most others.

Mr Deputy Speaker, it is a fact that in leaving only two people in charge of the entire Government Mr Kaine has deserted his duty. His duty, as Chief Minister, is to ensure that there are adequate arrangements for the government of this Territory, whether he is in the country or not. He has not given us any such assurance.

Mr Jensen: More than Clyde Holding gave us.

MS FOLLETT: Mr Jensen interjects, Mr Deputy Speaker, that that is a lot more than previous Federal Ministers have given us, and I am inclined to agree with him. That is why I always supported self-government. I believe that the people of the ACT deserve to have people whom they elect taking full carriage of all of the decisions and all of the laws that affect them. Mr Deputy Speaker, you have to bear in mind that half of the people who are left behind in charge - the Mr Duby half - went to the people on a platform opposing self-government. I wonder whether he will have a sudden excess of conscience and decide that it might be worth trying to implement that policy while he almost has the numbers. He could probably talk Mr Collaery into it.

Mr Collaery, of course, Mr Deputy Speaker, is so obsessed with his own conspiracy theories about everything to do with every member of this Assembly that we can only wait with bated breath to see what kinds of actions he may take when he, in effect, is in sole command of the Territory. It was Mr Collaery, Mr Deputy Speaker, who brought down the last Government.

Mr Jensen: Oh, that is your problem. That is what is annoying you. The penny has dropped.

MS FOLLETT: It is quite clearly Mr Collaery's intention, by his own statements about his fellow Ministers, to bring down yet another government. I do not think members opposite should kid themselves about that.

Mr Collaery's only electoral chances lie in making himself somehow look different from the current Government, the current Liberal Government. Mr Collaery, I believe, has started his run at that very strategy. Mr Collaery has started already to put the knife in, to start talking about his colleague Mr Humphries' management of the health and education portfolios in such a way that Mr Collaery himself can distance himself from those decisions. It is a deliberate strategy. It is a strategy that is aimed purely and selfishly towards Mr Collaery's own electoral chances, and it will be a strategy that he will follow up, I believe, during the absence of the Liberal Ministers. It is not a strategy that has anything to do with the good government of the Territory, but Mr Kaine has left us in those hands.

MR KAINE (Chief Minister) (5.05): I have only about two minutes, I think, so I will not say a great deal. The one thing that I will say is that I simply have great difficulty in believing that these people opposite can be so mean, so ungenerous and so petty-minded as to suggest that Ministers should not take reasonable leave, and Mr Wood said - - -

Mr Wood: I did not suggest that at all.

MR KAINE: Mr Wood said, and I quote - - -

Mr Wood: That was not my suggestion.

MR KAINE: Mr Wood said - - -

Mr Wood: No, you stick to the facts. That was not my suggestion.

MR DEPUTY SPEAKER: Order, Mr Wood! He is going to quote.

MR KAINE: He said, and I quote, Mr Deputy Speaker: "It is not acceptable that they should be away".

Mr Wood: Two people away for seven weeks.

MR KAINE: Mr Wood, you said, "It is not acceptable that they should be away". I would submit, Mr Deputy Speaker, that we, like everybody else, are entitled to take some reasonable leave. For myself, I am taking no more leave that any public servant in this town would take under the same circumstances. Yet we have this mean, petty, ungenerous approach. I must say that I am most disappointed.

I think that I know what this is all about. The people opposite are troubled that I am still held in very high regard by this community and they are trying to find some way to destroy me. Well, it will not work, because people know me too well. They do not accept the pettiness and the approach that you are taking to this matter. Ms Follett talked about people who should be sacked. The only Ministers who should have been sacked were sacked and they are sitting over there. That is the end of that argument.

Mr Deputy Speaker, I think I have about 15 seconds left. I would like to conclude by saying that I hope that the other members of this Assembly enjoy their Christmas breaks. I am not going to deny them any break. I hope that they enjoy it, and I wish them and their families a very happy Christmas. I hope that it is a good time for them, that they enjoy their break, and that they all have a most prosperous 1991 for themselves and their families. I think, Mr Deputy Speaker, that that really ought to be the end of the debate.

MR DEPUTY SPEAKER: Thank you, Chief Minister. That is indeed the end of the debate because the time for the discussion has now elapsed.

MR WOOD: Mr Deputy Speaker, yes, the discussion is finished. I wish to make a short statement under standing order 47.

MR DEPUTY SPEAKER: Yes, all right, Mr Wood.

MR WOOD: I do not deny people opposite a reasonable holiday. I never suggested that at all. To propose that I did is a simple evasion of the issue.

HEALTH SERVICES BILL 1990
Detail Stage

Debate resumed.

Clause 21

MR BERRY (5.08): Mr Deputy Speaker, I rise to speak on the amendment which has been circulated in my name. I move:

> Page 9, paragraph 21(1)(b), lines 17 to 20, omit the paragraph.

Before I go any further, Mr Deputy Speaker, I wonder whether this is the one amendment that the Government will agree to. It is a bit hard to work out which one they are going to agree to. This is how petty they are; they will not even tell us which one of our amendments they will agree to. We have to labour our way through all of these to work out where the Government is coming from. This petty Government opposite will not even tell us. The Opposition has had the courage to examine this ill-prepared Bill and ensure that appropriate amendments are attempted to improve what is really a poor performance by the Minister for Health. Earlier in the detail stage we have seen some examples which show up the Health Minister for his incapability to address the issues of hospital services and hospital service delivery as a result of this Bill.

This clause talks about the termination of the appointment of an appointed member. It is commonplace, as this Bill prescribes, for appointments to be terminated for misbehaviour, or physical or mental incapacity; but in the case of a member of the board who is a health professional the appointment is to be terminated if the member ceases to be registered to practise under a law of the Territory or ceases to be a member of his or her professional association. That means, Mr Deputy Speaker, that the only people who will be subjected to that disciplinary measure will be health professionals.

For example, if there were a lawyer or two on the Board of Health and they were deregistered, disrobed, or whatever happens to a lawyer who loses membership of a professional association, they would be able to continue on that board;

but if it happens to a health professional he or she is discriminated against. If health professionals or any other professionals misbehave or have some sort of mental incapacity, their appointment can be terminated by the Minister. Similarly, their appointment can be terminated if they become bankrupt, and so on. Their appointment can also be terminated if they are absent, except on leave, or if convicted in Australia or elsewhere of an offence punishable by imprisonment for one year or longer. But the only people who can be dumped off the health board if they lose membership of their professional association or they become unable to practise under a law of the Territory are health professionals.

It strikes me that this sort of discrimination ought not have passed unnoticed in 1990. It seems to me that the Government is supporting a piece of legislation that has been ill thought through as far as this matter is concerned. We know, in respect of some other matters which have been debated already, that it has not been thought through and we know that there has been some knee-jerk agreement between some Government members and the Residents Rally members about changes that were necessary to the legislation, but in this respect it just seems that the Government ignored the existence of reasonable standards of treatment for people.

It escapes me why this has passed notice. A nurse who may well be a quite competent person and who is participating on the board will get the dump if she is not a member of her professional association. If an electrician was on the board and for some reason he was refused a licence to practise under a law of the Territory, then he could stay on the board. I do not think that we can let this pass without notice and I would hope that the Government would support this amendment.

Perhaps this is the amendment they are going to support. We have not worked that one out yet. It seems to be a most reasonable one, though I have to say, Mr Deputy Speaker, that our other attempts to amend the legislation were quite reasonable and proper too. We are testing the water, as we work through the legislation, to find out which one will be agreed to. It is with eager anticipation that we work through these amendments in the hope of finding the one which the Government will agree to.

Will they agree to this one? I think they ought to. I think it would have the support of the medical profession, and the Government has shown that it is prepared to be influenced by the medical profession in relation to other amendments which it proposes to make to remove the requirement for medical people to participate in quality assurance programs. I cannot see why they would not support this sort of amendment. I suggest that it would have the support of the medical profession and I think it would be supported by other health professionals.

I understand that the Minister is a lawyer who is entitled to practise in the Territory. If he was on the board and was given the dump from his professional association, he would be able to continue on the board; but the health professional next to him, if given the dump from his or her professional association, would not be able to. This strikes me as very odd. But that is not something I am surprised about when I look through this Bill. It is, in many ways, a very odd Bill. I would be interested to hear whether the Government is prepared - - -

Ms Follett: Is this the one?

MR BERRY: Yes, is this the one? This is not the one that you are going to agree to?

Mr Humphries: You should have asked me, to find out. You have not even approached me about these amendments. You have not spoken to me about any of these amendments.

MR BERRY: Oh, dear me. Does one have to go to the Minister on bended knee and find out which one they are going to agree to or do we have to - - -

Mr Jensen: A quiet stroll across the chamber might help, Mr Berry.

MR BERRY: I am just asking loudly. You can tell me loudly so that we can anticipate which one you are going to agree with. Anyway, we will work through all of this - - -

Ms Follett: Perhaps they do not know.

MR BERRY: Well, there could be more that they will agree with. It depends on what Mr Collaery does. Earlier on there was one that was not going to be agreed to until it was pointed out that there was a Residents Rally policy on it. Mr Collaery is in deep trouble now for ignoring some Residents Rally policies in the area of health and education. I think that Mr Moore quite rightly rounded up Mr Collaery on that policy issue, although I must say that he gave me an unfair dump. We will work on that one a little later, given an appropriate opportunity.

On this issue I am deeply disappointed with the Attorney-General, who has attempted to develop something of a reputation about discrimination and those sorts of things. I would have expected that the Attorney-General would have had something to say about this. One group of professionals is being discriminated against as compared to others. It is a disappointment that this particular clause has survived the scrutiny of the Attorney-General. I am pleased that he has now taken an interest in this matter. I am hopeful that his interest in it might turn Mr Humphries around on the issue, because I really think it needs looking at.

It strikes me as a bit odd that one group of professionals might be discriminated against. After all, they are not practising their profession on the board. After Mr Moore's effort, they would be practising as unpaid board members - a thing for which they will, I am sure, be eternally grateful to Mr Moore. Perhaps it might reflect on the quality of people who take up positions on those boards. I urge the Government to support the amendment that has been put forward. I would like to be surprised by Government agreement to this amendment. I wonder whether this is the one.

MR HUMPHRIES (Minister for Health, Education and the Arts) (5.18): Mr Deputy Speaker, this is not "the one". Mr Berry might know which "the one" was had he chosen to discuss any of his amendments with me before coming into this house. Mr Berry slapped a wad of amendments on the table and made no attempt to discuss any of them, or explain them, or seek my views on any of them. I might point out that only yesterday I agreed - - -

Mrs Grassby: Even when we do, you people do not agree. I have tried it. I have discussed amendments and you still will not agree to them. What is the good of talking to you before?

MR HUMPHRIES: I might point out, Mr Deputy Speaker - - -

Mrs Grassby: That is right. So what? If we do not talk to you, it does not matter; if we do, it does not matter either. You will not agree.

MR HUMPHRIES: Mrs Grassby says that it does not matter whether we do or we do not. I remind her that yesterday Mr Berry approached me about another amendment to a piece of legislation he was putting forward and I readily agreed to it. We in fact effectively put a Government Bill through, piggybacking on Mr Berry's own Bill about sexually transmitted diseases. So I am a reasonable man when it comes to considering approaches from the Opposition. When Mr Berry wants to play politics with his amendments, get a splash for them, and not be prepared to justify any of them, not discuss any of them, naturally, of course, he is going to find himself coming to grief.

Mr Deputy Speaker, the amendment he has put forward in this case indicates an appalling ignorance of what goes on in the hospital system and, in particular, what is appropriate for a board of this kind. The fact of the matter is that a health professional who is appointed to serve on the Board of Health will be appointed with their status as a health professional in mind. In fact, one might say that it would be fundamental to their appointment to the board.

If, for example, a doctor was appointed to the board and subsequently was disbarred, it would be incomprehensible for the Government to allow that person to remain on the board. Without that provision, it has no power to remove the person from the board.

Mr Berry: What about a lawyer?

MR HUMPHRIES: That is not what your amendment says, Mr Berry. It does not remove the word "health"; it just removes the whole subclause. Mr Deputy Speaker, the fact of the matter is that Mr Berry has got totally boxed up again. He does not know what he is talking about and again has the wrong end of the stick. The fact is that the medical profession would strongly endorse this provision because they certainly would not want to see a disbarred doctor sitting on the Board of Health, and they would not want to see disbarred lawyers either; but Mr Berry has not moved that amendment.

I will give Mr Berry an analogy which I think he would probably understand. Let us suppose that there was a provision for a particular union to appoint a person to serve on the board. Let us say that it was the Australian Nursing Federation. I am sure Mr Berry would be most anxious, if he were Minister for Health - God help us - to ensure the removal of that particular nominee of the Australian Nursing Federation if she or he happened to retire or resign from the union. Why? Because the person no longer fulfilled the essential qualification for being on the board.

Once again, in these situations, Mr Deputy Speaker, with clause 21(1)(b), it is essential that persons appointed to a position on the board by virtue of their being a health professional retain and maintain their membership of that particular medical profession or health profession during their service on the board. Clearly, if they ceased to be registered to practise under a law, if they were already in that category, they would not be eligible to remain on the board. It makes commonsense.

As I said, I think Mr Berry does not understand these provisions. I suspect that he would have had much more benefit from sitting down and talking with someone from the department. I would have been happy to have briefed him, had he sought the opportunity, on what these clauses are all about.

MR BERRY (5.22): The first thing I want to say is that this matter was taken up with Mr Humphries' staff. I do not think that we have to go begging to Mr Humphries to get a response to amendments. The fact of the matter is that this is a discriminatory piece of legislation. It discriminates against health professionals. Mr Humphries used an incorrect analogy, and a most inappropriate one, when he talked about a representative on the board from an association. He said that, if the nurses federation or some other union appointed somebody to the board and they resigned from their profession, then I would be keen, if I were Minister, to remove them. The fact of the matter is that, if they were nominated by the union or association for appointment and were appointed accordingly, I would be

entirely happy while ever that organisation was happy enough to have those people represent them. But if the terms of the appointment were that they were representing an organisation - - -

Mr Humphries: But what if they were not?

MR BERRY: Well, if the terms of the appointment were that they should be a representative of an organisation, then, of course, I would be unhappy; but the fact of the matter is that it would be up to the organisation. The Minister seems to ignore the fact that anybody appointed to a board such as this is part of the board, not part of the organisation that he represents.

I seem to recall some legal form about the issue. One case that I recall involved a person called Bennetts. It was in relation to involvement on the Board of Fire Commissioners in New South Wales and whether or not a person on a board was a representative of the organisation that nominated him. Well, he was not a representative of an organisation; he was, in fact, part of the board. For the Minister to say, therefore, that his membership of a professional association had anything to do with his appointment to the board was completely wrong. The fact of the matter is that they are appointed to the board to be board members, to be part of the board, and their professional association or membership plays little part in it.

Of course, people would be appointed to the board because of a particular level of expertise and that is why, I suspect, lawyers, pharmacists and business people are appointed to the board. That is why the Minister has chosen a number of the people he has chosen to participate on the board - all, as I have said earlier, from the top end of town. But if a person who was appointed to the board was disbarred, why is it that he could continue to participate in board procedures when a health professional, similarly chucked out of her or his association, could not?

It just does not make sense to me. It is discriminatory. I do not think any amount of argument from the Minister could convince anybody that that sort of discrimination can be accepted. After all, the people who are on the board are not practising their profession; they are part of the board. That is a matter of fact, and I think it is a matter of law as well. They are not professionals when they are on the board; they are part of the board. I cannot, therefore, find anything convincing in the Minister's argument that would change my view about the amendment.

I again say that these amendments were brought to the attention of the Minister's office. For him to squeal about it is most unprofessional, in my view. It would have been courteous of the Minister to let us know which of the amendments he is likely to agree to. It does not trouble me that much, Mr Deputy Speaker. It is quite easy to

ridicule the Minister on this one because of the pettiness over the issue. I just look forward to the surprise when we arrive at that amendment to which the Minister agrees. It will be like receiving a Christmas present or Mickey Mouse getting a Bernard Collaery watch.

The fact is that this does discriminate. For the Minister to persist with it is indicative of his lack of understanding of discrimination on these sorts of grounds. People are not on the board to practise their profession; they are there to be board members. To discriminate against members of the medical profession in this way just seems to me to be over the top.

MR MOORE (5.29): I have heard Mr Berry's arguments and Mr Humphries' response. It seems to me that the deletion of this particular subclause is a very sensible way to handle this situation. I would urge the Minister to consider it seriously. At least one lawyer has been nominated for the health board already. Whilst I have a great deal of admiration for that person as a practising lawyer, should he be unable to practise in the ACT, through a similar reason to that for somebody being unable to practise here, then it would be appropriate that that person be removed from the board as well.

It seems to me that, in fact, they are probably covered for misbehaviour under subclause (1) anyway. To point specifically to health professionals and to nominate them in this way appears to be totally inappropriate. There is a wide range of people on the health board, as there ought to be, and in due time I am sure that health board will have a much broader range as people come and go on it.

Mr Berry: In 1992.

MR MOORE: In 1992 there will be a much broader range if it continues to exist, and I imagine that to a certain extent that will depend on its performance. But, that being the case, it seems to me that the logical thing to do now is to accept that deleting this paragraph is the most appropriate stance to take on this particular issue.

MR HUMPHRIES (Minister for Health, Education and the Arts) (5.31): I will have to make it clear that Mr Berry does have the wrong end of the stick on this one. I turn first of all to Mr Moore's point. If Mr Moore is concerned about other people changing in some way while on the board and not fulfilling their qualification, I will be happy to consider an amendment from him. But that is not the point of this particular provision. The point is to prevent people who no longer hold the essential qualification for being on the board remaining on the board.

To give an example of what Mr Berry has said which is so fallacious, take his example of a union representative who was appointed to the board. Suppose Mr Berry becomes Minister and he inherits this legislation and decides to

appoint a representative of the Australian Nursing Federation to the board. Suppose he said to the ANF, "Who would you like to put on the board?", and they said, "Ms Bloggs", and Ms Bloggs was duly appointed. If Ms Bloggs subsequently failed to remain a member of the ANF - - -

Mr Berry: It is up to the ANF. They do not have to - - -

MR HUMPHRIES: It is not; this is the point. Mr Berry does not understand. It is not up to the ANF. If Ms Bloggs ceases to be a member of the ANF Mr Berry has no power, as Minister, to remove her from the board unless he tries to treat quitting a union as misbehaviour, which I do not think it is, or physical or mental incapacity. The fact is that he has no - - -

Mr Berry: What about if the trade union movement put up a non-health professional? Say the ANF put up somebody who is not a health professional?

MR HUMPHRIES: All right; there is no problem. It does not matter.

MR SPEAKER: Order, Mr Berry!

Mr Berry: He is a very, very sick Minister, this Minister.

MR SPEAKER: Mr Berry, please!

MR HUMPHRIES: Mr Speaker, Mr Berry does not understand what he is talking about. The fact is that he cannot appoint to the board on conditions of that kind. He cannot appoint to the board on the condition that the person remains a member of a health profession, or of a union, or of a legal fraternity, or anything of that kind. He cannot impose those conditions.

Mr Berry: But you can if you want to dump them.

MR HUMPHRIES: You can do that if they are an appointed person with a health professional background and it is appropriate that they no longer remain on the board because they have ceased to retain that health professional background, at least in terms of formal registration or membership of a professional association. Do not forget also, Mr Speaker, that it is a discretionary power. It is not compulsory for a Minister to take someone off who has failed, for example, to be in a particular category. There might be good reasons for that. But certainly the Minister ought to have the power where that person ceases to be a member of that professional association.

MR SPEAKER: The question is: That the amendment moved by Mr Berry be agreed to. Those of that opinion say Aye, of the contrary No.

Government members: No.

MR SPEAKER: I think the Noes have it.

Mr Berry: The Ayes have it.

MR SPEAKER: There was no call.

Mr Berry: Well, the Ayes have it.

Mr Jensen: He is calling for a division.

MR SPEAKER: Yes.

Mr Humphries: He did not even say anything when the vote was called, Mr Speaker. There were no votes in favour of this when the vote was called. He was silent.

Mr Berry: I said it very softly. Once you call a vote it has to go ahead anyway.

Mr Humphries: No, not necessarily. There have to be some voices.

Mr Berry: The Ayes have it.

MR SPEAKER: Even though you did not call, Mr Berry, I think you have the right to challenge. Ring the bells.

The bells being rung -

Mrs Nolan: I raise a point of order, Mr Speaker. I do not believe that the person who called for the vote can leave the chamber.

MR SPEAKER: He has not.

Mrs Nolan: He went out that door over there and now he is back up there, but he was out of the room.

MR SPEAKER: Mr Berry, please resume your seat.

All members are now present. Order! The question is: That the amendment be agreed to.

Mrs Nolan: What about my point of order?

MR SPEAKER: I asked him to return to his seat, Mrs Nolan.

Mr Collaery: But that is not a response to a point of order, Mr Speaker.

Mrs Nolan: He left the chamber.

MR SPEAKER: Well, what do you want me to do?

Mr Jensen: He cannot vote.

Mr Moore: Say "Sorry", Wayne.

Mr Collaery: He cannot vote.

Mr Duby: You should cancel the vote.

MR SPEAKER: Please apologise to Mrs Nolan.

Mr Berry: I am sorry, Mrs Nolan.

Mr Kaine: I take a point of order, Mr Speaker. I do not think it is a matter of apologising. The standing orders say that a person who calls for a division may not leave the chamber. The member did leave the chamber and again returned. Is there no control over what happens in the house?

MR SPEAKER: That is a very strict interpretation of the standing orders. The member left for five microseconds and was still within my view. I do not believe it is - - -

Mr Jensen: I raise a point of order, Mr Speaker. I draw your attention to standing order 155 which says:

> A Member calling for a vote shall remain seated until after the Assembly is called and shall vote with those who, in the opinion of the Speaker, were in the minority when the voices were taken.

Clearly, Mr Speaker, Mr Berry left his seat in contravention of standing order 155.

MR SPEAKER: Thank you for your observation, Mr Jensen. I then ordered the member back to his seat, if you were listening, and that is all that needed to be done.

Mr Jensen: Only after it was - - -

MR SPEAKER: Well, thank you; I reacted to the point of order.

Ms Follett: Give the Speaker a break.

Mrs Grassby: Are you running the house now, Mr Jensen?

MR SPEAKER: I asked him to resume his seat.

Mr Moore: Perhaps they want him crucified.

Mr Kaine: Yes, please.

MR SPEAKER: Order! The question is: That the amendment be agreed to.

Mr Wood: I take a point of order, Mr Speaker. I think the Chief Minister needs to withdraw the "Yes, please" that he said to the - - -

Mr Collaery: He does not. Stop wasting our time.

Mr Kaine: It was not my proposal. You had better ask Mr Moore to withdraw his proposal.

Mr Wood: To the question that you be crucified.

Ms Follett: No; it is Christmas, not Easter.

MR SPEAKER: I know that I am godlike, Mr Wood, but! Order! Please let us get on with this. It is going to be a late night anyway. The question is: That the amendment be agreed to.

The Assembly voted -

AYES, 6	*NOES, 10*
Mr Berry	Mr Collaery
Mr Connolly	Mr Duby
Ms Follett	Mr Humphries
Mrs Grassby	Mr Jensen
Mr Moore	Mr Kaine
Mr Wood	Dr Kinloch
	Mrs Nolan
	Mr Prowse
	Mr Stefaniak
	Mr Stevenson

Question so resolved in the negative.

Clause agreed to.

Clauses 22 to 26, by leave, taken together, and agreed to.

Clauses 27 and 28, by leave, taken together.

MR BERRY (5.40): Mr Speaker, I just wish to refer to some documents.

Mr Kaine: Why don't you just put it to the vote?

Mr Stefaniak: Yes, do not worry about talking about it. Nobody is going to take any notice anyway.

Mr Kaine: Especially if you are a bit confused. We do not mind voting on it right away.

MR BERRY: Well, I am not that unhappy about a short wait. I get two goes, you see, and it does not matter that much, Chief Minister. It is just a matter of getting the issue before the Assembly. The issue is the disclosure of evidence by people who may be members of an approved committee. The Labor Party stands opposed to this secrecy and we will seek at all times to ensure that people involved in these committees have to reveal any evidence that they may have received in committee proceedings.

It seems to me to be unfair, when compared to the rest of the community, that members of these committees would not have the information that they are provided with in relation to those committees admissible as evidence in civil or criminal proceedings. It seems to me that it would be quite obvious to those present that the ALP does not support the closed shop arrangements of those engaged as health professionals. The interests of health consumers are not protected by these clauses. The fact is that there should not be that sort of protection. Only the medical profession has such absolute protection as is proposed in this Bill. Indeed, it may be argued that due to the nature of their work the medical profession should be the last to be afforded such protection.

It needs to be made clear that this is not meant to be a criticism of the medical profession; it is just a criticism of the Government's legislation. The fact of the matter, Mr Speaker, is that, if good doctors and others in the health professions have nothing to hide, they have nothing to fear. It strikes me that it is long overdue that the operations of the professions be open to the light of public scrutiny. That has not been always the case in the past, but the amendment moved by the Labor Party in Opposition in this matter seeks to open the issue up and I do not see anything wrong with it. Most other people are required to attend courts and provide evidence in matters which might be related to their profession and I cannot see any reason why doctors should not be in the same position. I think doctors ought to be accountable. It is the community who, in some way, pays them and they are - - -

Mr Humphries: It is not the doctors we are talking about. It is the people who testify against them.

MR BERRY: Indeed, so should doctors be afforded the protection from people who have given evidence in committee?

Mr Humphries: Defamation proceedings.

MR BERRY: People are not permitted under the law to defame people, otherwise they face a penalty. You either provide evidence which is correct or you pay the penalty. It has been put to me that in every other Labor State they have such clauses, and I am not surprised. The health profession is very strong. They are to be congratulated, I suppose, because they have one of the strongest trade unions in the country, or the strongest trade union in the country. There is nothing wrong with strength and unity, but it has to be tempered against the public interest and I think this would be in the public interest. I would encourage the Minister and the Government to stand up for the people's interests and remove this secrecy and protection.

MR HUMPHRIES (Minister for Health, Education and the Arts) (5.46): Mr Speaker, I am really appalled by Mr Berry's ignorance in this matter. I wish he had taken the trouble to discuss this matter with Mr Connolly perhaps, who is on his own side, before he came down to this place and spouted those quite ridiculous words. If he looked carefully and took some advice on the matter, he would realise that clauses 27 and 28 are fundamental to any decent quality assurance program. You cannot have a decent quality assurance program unless you protect the people who take part in those quality assurance programs.

He also does not understand what this is all about. The whole point about the need for the Minister to establish approved committees under clause 26 of the Bill is to provide those committees and the people who appear before them with legal protection for participating in such things as quality assurance. Let me give you an example. A particular patient goes in for an operation and there is some question of that particular person not having been properly dealt with while under anaesthetic. Now, obviously one needs to explore such issues in questions that arise during quality assurance reviews. It is not possible to do that comprehensively, frankly and openly unless the people who testify in such matters before quality assurance reviews can do so in confidence.

Those quality assurance committees are not courts. They do not have the power to compel witnesses and they do not have the power to protect witnesses against what might be said in those proceedings. If a person is injured by a doctor in the course of the operation, that person is entitled to go to the quality assurance committee and say so. What is more, other doctors are entitled to go to those committees and say, "I do not think that Dr X did a good job."; "I think that Dr Y's standards are below par."; "I think Dr Z has insufficient capacity in a particular area to properly provide services in that area."; "Dr Z is not up to scratch any more.", or whatever. Unless you have protection for people making such statements, you cannot have an open and full quality assurance program.

Mr Berry also asked about what is done elsewhere. Certainly these provisions exist in one form or another in New South Wales and Victoria. To my knowledge, they probably exist in most other places, if not everywhere else in this country as well. They are essential to providing high quality assurance programs. I remind Mr Berry that the previous loss of accreditation for our public hospital system arose from the fact that we did not have decent quality assurance programs in place.

I think, Mr Speaker, that if people believe that they have suffered some injury or other professionals in the health system believe that someone is not delivering a high quality of service they should be able to say so and they should have protection when they say so. That is appropriate. It is appropriate in, to my knowledge, every

other quality assurance system and it should be appropriate here. The amendment circulated by Mr Berry is brought forward out of pure ignorance and should be rejected by this place.

MR BERRY (5.49): Mr Humphries talks about protection for people who bring evidence to these committees. Of course, the committees will be made up of the medical profession, it strikes me. He sets out to argue that there is some concern in his portfolio for quality assurance, yet what a mealy-mouthed statement he makes, because in his own amendments which have been circulated in this place he seeks to ensure that the board cannot direct health services, consultants or members of staff to participate to the extent that the board considers necessary in reasonably quality assurance activities. Do not let him talk to us about quality assurance, because he is dumping the requirement for these people to do it.

Mr Humphries: It does not mean that they cannot happen. It is because they cannot be compelled to take part in it.

MR BERRY: Now he says that it does not mean that they cannot happen. What a joke! This Minister is a joke and so is the Bill. The fact of the matter is that this tends to cover up the procedure of these committees. I do not think there is any argument that would support this sort of secrecy and I think it needs to be resisted.

Clauses agreed to.

Clauses 29 to 40, by leave, taken together, and agreed to.

Clauses 41 to 43, by leave, taken together.

MR HUMPHRIES (Minister for Health, Education and the Arts) (5.51): It is appropriate for us to look at these three clauses together because, substantially, they do cover the same issue. The clauses deal with participation in quality assurance programs and the level of compulsion it is possible to implement in respect of those quality assurance programs. It seems to me, Mr Speaker, that there is an argument, a very good argument, for considering whether the best way to implement such quality assurance programs is with the support or with the opposition of the most crucial groups to those kinds of programs, namely, the medical profession.

It is quite obvious, Mr Speaker, that there are other ways of achieving these ends, and those other ways include the construction of a quality assurance program negotiated with the Australian Medical Association, or with doctors generally. Mr Berry laughs. Mr Berry obviously does not believe that he can talk to the Australian Medical Association to reach such an agreement. I indicate, Mr Speaker, that I have a commitment from the AMA that they will work towards the achievement of a decent quality assurance program by the middle of next year and I am satisfied by that assurance.

I intend to comply with that spirit by removing clauses 41 to 43 from this Bill. I believe that at the end of the day the Bill will be stronger because quality assurance of the kind that the hospital system needs will have been achieved through cooperation and discussion with the medical profession rather than through compelling them and their members to comply with particular provisions, forcing participation in those quality assurance programs. I think, Mr Speaker, that if Mr Berry was serious about the comments made before on closed shops and compellability, and so on and so forth, he will accept that it is not appropriate to compel people to take part in these programs. It seems to me that to be consistent he ought to do that.

Sitting suspended from 5.55 to 8.00 pm

MR BERRY (8.00): Mr Speaker - - -

Members interjected.

MR BERRY: Of course, speed is not important. It is the quality, not the quantity of the debate; is that right? It is very interesting, Mr Speaker, that members opposite come back from their dinner break full of frivolity; but that will soon disappear when they come to grips with the gravity of the situation that is in front of them, because this is a very serious matter. What the Minister has sought to do in relation to clauses 41, 42 and 43 - - -

Mr Humphries: Yes, he has wrecked the system; destroyed public health; devastated the system.

MR BERRY: Indeed, he says himself, "Destroy the public hospitals". This Minister seeks to withdraw the requirement that the board would have had, had the Minister proceeded with the original provisions of his Bill. What the Minister now proposes is to withdraw the requirement that health services consultants and members of staff should participate in reasonable quality assurance activities. In the same way, it withdraws the right of the board to direct members of staff and health services consultants to maintain clinical records that are timely and complete and that conform with the medical record service standards as published from time to time by the Australian Council on Healthcare Standards, and not to remove those records from the relevant health facility. That health facility, of course, would be one that is administered by the Board of Health.

The Minister has also chosen to withdraw the penalties that go with a failure to comply with the directions in respect of those matters referred to in clauses 41 and 42. Clause 43 talks about the requirement for a consultant to show cause in writing, if there is a failure, why the board should not "vary the terms and conditions of, suspend for such period as is specified in the notice, or terminate the

consultant's engagement on the ground of that failure". It goes on to talk about the consultant's engagement - there is a notice under that section - and so on.

Mr Humphries: Yes, we know that you can read, Wayne.

MR BERRY: Mr Humphries says that he knows that I can read. I am glad that he gives me the credit for something. I just wish that on occasions he would give me the credit for being awake to what he is on about in the public hospital system. What he is doing here is ensuring that there is nobody accountable to the board for the delivery of quality assurance activities. This is the Minister who just a moment ago was crowing about the requirement to ensure that there are quality assurance activities carried on within the hospital system. He was crowing about that in relation to Division 2, "Approved committees", concerning the admissibility of evidence and members not being compellable to produce evidence.

The fact of the matter is that he has done a complete 180 in just a few short clauses of this legislation. I think we have to get to the bottom of the reason for the Minister's turnabout, and it is because a number of powerful people amongst the medical practitioners have leant on him, and he has folded. It is a great pity that the Minister did not fold in the face of community opposition to what he was doing in the schools and with the closure of the Royal Canberra Hospital. It only takes a few powerful medicos in the community to lean on this Minister a bit and there is a complete collapse; he collapses like a pack of cards. It is absolutely disgusting.

The community will be appalled by this because it knows that one of the reasons why the Woden Valley Hospital, now known as the Royal Canberra Hospital South campus, does not have accreditation is the absence of acceptable quality assurance activities. What this legislation properly set out to do was to impose the requirement to participate on practitioners in the hospital system.

Mr Moore: They have not been able to achieve it up to now.

MR BERRY: They will not do it by themselves. Self-regulation will ensure that it will never happen. Unless there is regulation that requires the implementation of quality assurance practices, of course, it will never happen. You can see that the Liberal Party does not have quality assurance in its preselection process because it has picked candidates who do not have any concern about the delivery of quality services to the people of the ACT and put them up for election. But so much for the Liberal Party. Mr Deputy - no, Mr Speaker; I am still getting over that trauma of yesterday.

Mr Stefaniak: That must have really affected you.

MR BERRY: It did; I was deeply hurt. Mr Speaker, the fact of the matter is that we have to confront this issue. We have to put the pressure on the Minister; we also have to put the pressure on the Residents Rally party, because that is a party which claims to have emerged from the community and one would expect, therefore, that its members would have some compassion for ordinary members of the community who might use our public hospital system. It could be expected, on the one hand, that the Liberals would not support ordinary members of the community. They would be rather more concerned about those of us who can afford expensive private hospital services. But the Residents Rally party ought to be ashamed of itself for not arguing for the retention of these very important clauses.

Bernard Collaery is pretending that he cannot hear me. No wonder! I would be ashamed as well if I claimed that I had come from a community party, such as he does, yet he ignores the pleas of a real community party to ensure that these quality assurance activities and the requirement for people to - - -

Mr Kaine: How would you know what a real community party stands for?

MR BERRY: Mr Kaine asks me how I would know what a community party - - -

Mr Kaine: You do not belong to one, so you could not possibly know.

MR BERRY: Mr Kaine could not even recognise one.

MR SPEAKER: Order!

MR BERRY: It is very nice to see that Mr Kaine is now defending the Residents Rally. I would be concerned if I were you, Mr Collaery. If I had Mr Kaine defending me, I would know that I was in trouble.

Mr Duby: What do you know about the working class? You are a fireman.

Mr Kaine: You would not know what a member of the working class looked like.

MR BERRY: I notice that people are slinging off about the working class and all that sort of thing. There is no compassion amongst this lot opposite for the working classes, otherwise this lot opposite would be standing up for the requirement for practitioners within the hospital system to participate in reasonable quality assurance activities. They are not doing it because they do not care. They do not care about the people of Canberra; they do not care about the community. They have demonstrated that on a number of occasions in the past. Norm Jensen, the proposed member for wherever it is down south, or in that general direction; that is, in his view - will not

stand up for the people of Tuggeranong either. They are the people who will be affected by the absence of the requirement for people to participate in reasonable quality assurance activities. This Minister has folded in the face of the powerful amongst the medical practitioners in this town. I am not talking about the GPs; I am talking about the powerful medical practitioners in this town. They have leant on Minister Humphries, and he has folded immediately.

But, of course, this person would not fold when it came to 46,000 people signing a petition to save a hospital and a public hospital service, and he would not fold when people complained about their school system.

Mr Kaine: Because he can live with reality, which is something you do not know anything about.

MR BERRY: According to the Chief Minister, reality is about being leant on by a few powerful doctors and collapsing in front of them.

MR MOORE (8.11): I do not know that I need such an emotive approach as Mr Berry's, but in this particular instance he is actually correct.

Mr Kaine: We are listening to a logical debate, Michael.

MR MOORE: Thank you, Chief Minister. He is actually quite correct and the proposals to remove this series of clauses are really entirely inappropriate. If we go back to the arguments that the Minister for Health was using just a short while ago when we were talking about quality assurance and the committees, and if we apply exactly the same arguments here, then it is appropriate that these clauses be retained.

What we have is a situation where we have to have our hospitals registered to standard, and we need to reach and make sure that we have quality assurance. It is as simple as that; it is straightforward. The doctors that have approached you have for a long time already had their opportunity to get there, and they have not got there. In producing this Bill and this board you have actually given yourself the tool to be able to ensure that you can. And now you are about to take the teeth out of it. It is the wrong way to go about it. I urge you to reconsider these proposals and, in fact, to retain the clauses, which is the logical thing to do.

What you need is the ability for the board to keep control of the consultant staff, to be able to have access to the records, and to be able to control them. By doing this you are removing the control for what you say is a much more reasonable approach. And that I agree with. However, you can leave this in here and the board can judge when it has a reasonable approach, but it will always have the tool sitting there in case it should need it. Leave the tool. Do not take the tool out. Leave it there. Encourage them.

Write a direction to say that at this stage it does not seem appropriate to use it. Try negotiations first. But do not pull the teeth from this legislation.

MR HUMPHRIES (Minister for Health, Education and the Arts) (8.14): Mr Speaker, what Mr Moore has said has actually made quite a lot of sense. I have to say that I do not powerfully object to what he has to say; but I do think that, as a general rule, the approach government takes should lean towards the tolerant. It should lean towards an attitude which allows people to come to the party, as it were, by their own choice rather than because laws enacted by the Assembly force them to come to that point.

What Mr Moore has said is quite true. Doctors have had a chance for a very long time to set up some mechanism for quality assurance, and it is a matter of concern to me that for so long those doctors have not cooperated - and I make no bones about that - in creating such a situation. However, it is quite clear to me that as an Assembly we have the power at any stage to provide for those provisions to be inserted into this Act when it becomes an Act. It is my view that the Assembly should not hesitate to do that if it is unable to secure the agreement of the medical profession to a voluntary system of quality assurance.

In my view, Mr Speaker, we are now in a position where we have a window of opportunity. The medical profession has made it quite clear to me that they accept their previous lackadaisical approach to this matter, they accept that this has caused the hospital system in the ACT to lose accreditation, they accept that it has caused serious problems to the delivery of high quality health care in Canberra, and they are prepared to do something about it.

As Minister, I am not prepared to throw that out the window and say, "Notwithstanding your preparedness to work with the Government to achieve common goals, I am going to legislate, and I am going to make you do this". That should not be the first port of call for a government. As such, I think it is appropriate for us to give the opportunity to doctors to embark on a voluntary quality assurance program. If it appears that we cannot achieve this goal, believe me, I will be the first person to come back here and support legislation to force it to happen; but I think that as legislators we should use coercive legislation only as a last resort, and I am not convinced that we have yet reached the last resort.

MR BERRY (8.17): Mr Speaker - - -

Mr Kaine: Why do you not get your act together, Wayne? You can never find the right papers.

MR BERRY: We do not have to move very quickly. I can see that it agitates you, and that is not a bad little ploy; but you are not very difficult to agitate these days. I am very happy that you are going on a holiday and I hope that

you will come back in a much better mood than the one that you have been exhibiting in the last few days. You have been tetchy, Chief Minister, and I think you need this holiday. Canberra might need to get rid of you for a while, but I think you need the holiday more than Canberra needs to get rid of you.

Mr Kaine: I have to get away from your boring and tedious debates.

MR BERRY: Well, they work; that is the main thing. The fact of the matter is, and I know that this has been said, that the Minister is setting out to pull the teeth from this legislation. He started out bravely and the legislation found its way into the Bill. I know that his bureaucrats would be concerned about the absence of any requirement for doctors to participate in those quality assurance programs, but what intrigues me most about the Minister's position is that, not only is he going to withdraw the clauses which require the doctors to participate in those quality assurance programs, but he is even going to withdraw the appeal provisions.

What he is saying is that those provisions are inadequate because they force people to do something, and he is going to be very tolerant of the medical profession all of a sudden because it will not participate to provide the services that the public demands. He has even shot himself in the foot by not mentioning the appeal provisions which allow for the doctors to appeal to the Administrative Appeals Tribunal in a case where they think they have been unfairly treated. There is plenty of ambit within this legislation to allow the doctors appeal rights and so on.

I do not know why the Minister is doing this. I think he has been snowed. I think perhaps we ought to think about history in the world. The reason that there are services provided by governments throughout the world - not only in this country but in the world - is that the private sector has failed to provide them. Private enterprise has never rushed forward to provide required public services. It just does not rush forward to do that, particularly the unprofitable ones. That is why there has to be regulation to require people to deliver services at a standard which is in the public interest.

Mr Humphries: Yes. The old Stalinist trick.

MR BERRY: I hear Mr Humphries muttering about the old Stalinist trick. That has nothing to do with it; that is as bad as Bernard Collaery's mystical trips to Moscow and so on.

Mr Kaine: Tovarishch.

MR BERRY: When you have earnt the right to address me like that, Chief Minister, I would be happy to accept it; but you have a long way to go.

The situation that presents itself to the Assembly is of a Minister who is about to pull the teeth out of legislation which was properly designed to ensure that quality public hospital services are assisted by the medical profession. What he has set out to do is to ensure that the members of the medical profession can do as they like, as they have done in the past. That is what has happened.

It has been proposed in consultation between Mr Moore and me that if the Minister was genuine he would say, "Well, okay, we will give an operative date to these particular clauses somewhere a little down the track, say, six months, to give the doctors a bit of a chance to get their act into gear and to prove themselves"; but, no, no, no - - -

Mr Moore: Which is the time in which they have said they will do it.

MR BERRY: Is it? Right. So, we could give them six months to prove themselves. No, the Minister is not interested in that either, because this Minister is not interested in public hospital services. He is not interested in quality assurance. All he is interested in is a cheap public hospital service for the ordinary people of Canberra. For those people that can afford other things, of course, it will be entirely different under this administration. What the members opposite have to accept is that this Minister is about to withdraw these very important quality assurance provisions.

It is appropriate that doctors are accountable. It is also appropriate that - - -

Mr Kaine: Have you lost your bit of paper again, Wayne? That is three times tonight. You are in deep trouble, old chap!

MR BERRY: No; it is all right. What I will bring up later on - on the quality assurance issue - is the situation of a doctor who was still operating in another State and who, if the legislation in that State had been strong enough, would have been prevented from practising.

What the Minister, Mr Humphries, is doing is ensuring that doctors do not have to regulate the provision of quality services for the Territory. He will ensure that they are able to run their own race. He is not even game to wave the big stick at the doctors and say, "I will legislate in six months if you have not got your act into gear". He is prepared to take them at face value straightaway because they are a powerful lobby in this community, but he is not prepared to take the word of 46,000 people who complain about the condition of their hospital services. He is not prepared to take notice of the thousands of people in the Territory who are concerned about their schools; but he is prepared to fold, like a pack of cards, in front of some lobbying from some strong professionals amongst the

medicos. I think, Mr Speaker, that that is an outrageous position for a government to take, particularly when the Government initially approved the drafting of legislation which took a reasonable stance on the participation of medical professionals in quality assurance activities.

I think that the provisions in the Health Services Bill are completely appropriate. They provide for the requirement for doctors to participate. They provide for the requirement for clinical records to be kept. They provide for a punishment if doctors fail to comply with the directions of the board. But most importantly they provide for a review of the board's decisions if doctors feel that they have been badly done by. If that is not a fair process, then I do not know what is. The Minister obviously has been convinced by the doctors that they will do it themselves. On past performance there is no evidence in the Australian Capital Territory that they will do it themselves. In fact, because we are waiting for them to do it themselves, our hospitals do not have the proper accreditation. That is why we cannot afford to wait any longer.

If the Minister had the courage of his convictions - and he tries to convince us that one of his convictions is the implementation of quality assurance programs in our hospital system - he would say, "Okay, we will give the doctors a go. We will give them six months. This legislation will not come into effect for six months, and it will come back to this Assembly for removal once the doctors have implemented a quality assurance program which can be shown to be adequate and proven to provide the circumstances which will lead to our hospitals being properly accredited". They have not done it in the past, Minister. I have not seen any evidence to convince me that they will do it in the future. This legislation is strong, but it was necessary. Now, you have pulled its teeth.

MR MOORE (8.27): Mr Berry, that was an excellent metaphor there - "pulling the teeth of this legislation".

Mr Berry: You started it.

Mr Kaine: I did not think we were talking about a dentistry board.

MR MOORE: That is right; it was my idea in the first place. I am glad the Chief Minister interjected that he did not think we were talking about a dentistry board because, of course, that is exactly what the health board is about. It is about dentistry and - - -

Mr Kaine: No, that is just one of its functions, Michael.

MR MOORE: That is all right. It is about dentistry and it is about broad health issues, and we must not concentrate our thinking down to just hospitals, although this particular issue deals primarily with hospitals.

I have just made a suggestion to Mr Humphries, that a six-month commencement date for these clauses would be one way to get around the minor differences, because I see them as minor differences. Certainly, in my discussions with Mr Humphries I consider them as minor differences between us. We are both keen to see that this legislation does have the ability to ensure that quality assurance and the accreditation of our hospitals are achieved. We see it as important, and we want to ensure that it can be done. I quite accept what Mr Humphries was saying, namely, that often it is better to cajole and to encourage and to attempt to achieve things in that way; but the reality is that your negotiating position is always so much stronger when at the end of the day everybody knows that the power is there to take the action. I think that the best compromise here - after we get to the end of this Bill - is to come back and to introduce an amendment in the commencement section of the Bill to the effect that these clauses will commence in June next year, in six months' time, 13 June.

I think that is clearly the best and most sensible compromise to make. That way the doctors will have their opportunity. They will know also that they have a deadline. If they do not meet the deadline, it automatically comes in. If they do meet the deadline, we have to take the action of - - -

Mr Humphries: It is coercive, though; it is still coercive.

Mr Berry: You do not mind coercing people to close their hospitals.

MR MOORE: "It is coercive", says the Minister. It is all right, Wayne; I can answer him.

Mr Berry: Can you?

MR MOORE: "It is coercive", says the Minister. Indeed, if I can quote - - -

Mr Berry: You do it very well.

MR MOORE: He was not too worried about coerciveness as far as the schools went, and not too worried about coerciveness as far as closing the schools went; he should not get too worried about coerciveness as far as the HEF goes. I do not hear you interjecting there, Mr Berry. That is certainly the case.

I think it is quite clear that this legislation has certainly had an impact on the doctors. They are concerned about it. Good. So, let us leave them to be concerned; let us leave those clauses in or make the compromise. The best thing is just to leave them in. The compromise is to say, "Let them come in in six months' time". We can even

have a semi-compromise on that in which the Minister agrees this evening to put off gazetting them for six months and states that he will not gazette them over the next six months. Give them a try and, if they match up, then bring it to this house and I will certainly give my assurance of supporting Mr Berry. Mr Berry, if quality assurance is up, would you be prepared to give your support in that time as well?

Mr Berry: Of course; if it is up to scratch.

MR MOORE: "If it is up to scratch", and that is the point we are making. I think a compromise is available to us, and I think it is an appropriate way to go. It can be done two ways: either the amendment to the commencement section of the Bill, or simply an agreement by the Minister not to gazette those particular clauses. It is easy, it is sensible, and I think we will recognise how sensible it is. Let us not be persuaded that anything else is any different. I would encourage all members of the house who can see the sense in this to talk to one another. I would even be prepared to break for 10 minutes, if you feel you need to consult on this particular issue in order to see the light - - -

Mr Berry: I will second that.

MR MOORE: Mr Berry thinks it is a good idea as well.

Mr Kaine: That is very magnanimous of you, Michael.

MR MOORE: I am glad you mentioned that. You need to make sure that this board has the tools with which to do the job that it is setting out to do. If you do not do that, then the board is going to fall into disrepute and your own Government will fall further into disrepute, but I suppose that does not really become all that relevant.

MR HUMPHRIES (Minister for Health, Education and the Arts) (8.32): Mr Speaker, I would like to answer the point about the willingness of the medical profession to achieve something which has not been achieved before. I would like to table a letter from Dr Grahame Bates, the president of the ACT branch of the AMA, in which he says:

> The AMA supports quality assurance and participation by all practitioners. The ACT Branch of the AMA is prepared to commit itself to work with the new ACT Board of Health to establish an acceptable program of quality assurance for introduction into ACT public hospitals by the middle of 1991.

I table the following letter:

> Health services - Copy of letter to Mr G. Humphries, MLA, from the President, Australian Medical Association, Australian Capital Territory Branch, dated 11 December 1990.

MR SPEAKER: The question is: That clauses 41 to 43 be agreed to. Those of that opinion say Aye; of the contrary, No. I think the Noes have it.

Mr Collaery: The Ayes have it.

Mr Jensen: What is going on?

Mr Berry: We are opposing the amendments.

MR SPEAKER: I did not call the amendments; I called the clauses.

Mr Berry: You are supposed to be calling the amendments, are you not?

MR SPEAKER: It is just opposition to the clauses; it is not an amendment as such.

Mr Moore: On a point of order, Mr Speaker: for clarification, I believe that the house was not quite clear on what was going on there. Would you mind calling that again?

MR SPEAKER: To be quite honest, I think both sides voted the wrong way. I will put it to the assembled members again. The question is: That clauses 41 to 43 be agreed to.

The Assembly voted -

AYES, 6	*NOES, 9*	
Mr Berry	Mr	Collaery
Mr Connolly	Mr	Duby
Ms Follett	Mr	Humphries
Mrs Grassby	Mr	Jensen
Mr Moore	Mr	Kaine
Mr Wood	Dr	Kinloch
	Mrs	Nolan
	Mr	Prowse
	Mr Stefaniak	

Question so resolved in the negative.

Proposed new clause 43A

MR BERRY (8.40): Mr Speaker, I move the amendment which has been circulated in my name.

Mrs Nolan: We have not seen it.

MR BERRY: Here it is, watch. There is a typographical error there. It should read at the top, "Proposed new clause 43A". The numbers for the following clauses should be 41 and 42.

Mrs Nolan: We just took them out.

MR BERRY: This is 43A.

Mr Kaine: You have screwed it up again, Wayne; pretty sloppy.

MR BERRY: It is very difficult to move quickly enough to keep up with some of the juggling of the Government members opposite, but I think this is not a bad attempt. I have to thank the staff who provided this at short notice.

I move:

That the following new clause be inserted in the Bill after clause 43, page 15:

"**Quality Assurance Program**

43A. If the Board is unable to prepare a proper quality assurance program within six months of gazettal of this Act, the following sections shall be reinstated:

Participation in quality assurance activities

41. The Board may direct -

(a) a member of staff; or

(b) a health services consultant;

to participate to the extent that the Board considers necessary and reasonable in quality assurance activities.

Clinical records

42. The Board may direct -

(a) a member of staff whose duties include the compilation of clinical records at a health facility; or

(b) a health services consultant;

to maintain clinical records which -

(c) are timely and complete; and

(d) conform with the Medical Record Service Standards as published from time to time by the Australian Council on Healthcare Standards Ltd;

and not to remove those records from the relevant health facility.".

This amendment, Mr Speaker, seeks to provide for the board to give leeway to the medical profession to provide quality assurance programs within six months of gazettal of the Act. If it does not provide those proper quality assurance programs within six months of gazettal of the Act, then the clauses which are set out in the amendment circulated in my name will be reinstated; that is to say, the board may direct the health services consultants and staff to participate in the quality assurance activities, and the

board could direct the keeping of clinical records by members of staff and health services consultants, and the maintenance of those clinical records in accordance with the required standards.

It clearly gives notice to the medical profession that the board would mean business. In the circumstances, I think, firstly, that the medical profession has not made a convincing attempt to implement quality assurance programs throughout the ACT; and, secondly, that we are yet to see the fruit of its promises; but we ought to be able to say to the medical profession and other professionals that we mean business about quality assurance in our hospital system and everybody has six months to deliver the goods, otherwise there will be regulation of the requirement for those professionals to deliver.

I think that is a reasonable approach in the circumstances, and I call on the Minister to support this amendment. He should see the relative merits of this. He only has to consult the history books on the provision of medical services in the ACT to understand that there is a need for action to be taken. To be frank, I would be quite happy if the health professionals were able to deliver the goods in respect of this. I must say that it not only applies to the medical profession - although it is only the AMA which has given the undertaking - it also applies to other health professionals, as far as I can make out, and there have been no undertakings from those other health professionals.

So, there is a gap in what has been promised by Dr Bates. I am sure that Dr Bates means what he says; but I have to say that the proof of the pudding is in the eating, and so far we have not seen the doctors able to produce, although they have, on many occasions, complained that quality assurance in the ACT is not up to scratch. They have complained to me, but they have not been able to put together the wherewithal to produce an adequate quality assurance program in our public hospital system.

I think this would be a message to health professionals that this Government, this Assembly, means business on behalf of the Australian Capital Territory community. We demand better performance. We demand the right to have quality assurance properly measured in our hospital system. We demand proper accreditation of our hospitals as a result of these quality assurance activities. I think that the amendments speak for themselves, Mr Speaker, and I look forward to some support from Minister Humphries on this matter.

MR SPEAKER: Mr Berry, in order to prevent the possibility of an amendment to your amendment and further debate on it, I would ask you to look at the last two words of your first paragraph there. Instead of "reinstated", would the words "take effect" be more appropriate?

MR BERRY: I am happy with that. Mr Speaker, I seek leave to replace the words "be reinstated" with "take effect".

Leave granted.

MR HUMPHRIES (Minister for Health, Education and the Arts) (8.46): Mr Speaker, I am afraid I cannot support this amendment. The fact is, Mr Speaker, that it does exactly what the ALP was previously putting forward, or would have done if it had got its way. It does, as Mrs Nolan points out, what the previous clauses would have done anyway. The point I am trying to make to those opposite is that there has been an offer of cooperation from the medical profession and we should take that up. Putting this in place reinstates the stick which I have said is going to be a barrier to getting any agreement with those people.

I will repeat what I have said before. If the negotiations with the AMA are not productive of a suitable quality assurance program, then I will be the first person to return to this place and say, "They have not succeeded; please support the amendments".

MR MOORE (8.47): Mr Speaker, I was just preparing an amendment to Mr Berry's amendment, because he has left out what was clause 43 and I think that that strengthens it. I move:

Add at end of proposed new section the following new section:

"**Failure to comply with directions**

43.(1) If the Board considers that a health services consultant has failed to comply with a direction under section 41 or 42, the Board may serve on the consultant notice in writing to show cause why the Board should not -

(a) vary the terms and conditions of;

(b) suspend for such period as is specified in the notice; or

(c) terminate;

the consultant's engagement on the ground of that failure.

(2) A notice under subsection (1) shall -

(a) contain full particulars of the facts or circumstances on which the Board has formed its opinion that the ground specified in the notice exists; and

(b) specify a time not less than 14 days or more than 28 days after the date of the service of the notice within which the consultant may show cause to the Board why his or her engagement should not be varied, suspended or terminated.

(3) The consultant may apply, by giving notice of an intention to show cause or otherwise, for an extension of the period within which he or she is required to show cause.

(4) An application under subsection (3) shall be made before the expiration of the period specified in the notice.

(5) On receiving an application under subsection (3), the Board may extend the period of time by not more than 28 days.

(6) If, after the expiry of the period of time specified in a notice under subsection (1) or any extension of that period, the Board is satisfied that no cause to the contrary has been shown, the Board may vary, suspend or terminate the consultant's engagement as originally proposed in the notice.".

If Mr Humphries and the Government are not going to support this amendment, then it becomes a bit of a futile exercise. The difference, Mr Humphries, between what we were suggesting before and what is being suggested here is that this will take effect.

In the other proposal we were saying, "Do not gazette it" - it would actually be in, but you would not gazette it - whereas it is quite clear from this that, if they have not achieved their goal, then it will take effect. I think there is actually a difference in the tone of the situation. There is enough of a difference so that, if you like, the threat is a little less like a sledgehammer but it is still there, probably just a - - -

Mr Humphries: Have you spoken to the AMA over this?

MR MOORE: No, I have not, but I can. Mr Humphries asked whether I had spoken to the AMA. Until yesterday, as far as I was concerned, those clauses were in and I was satisfied with them. The real question is: has the AMA decided to approach anybody else? As far as I was concerned, it was satisfied. Let us not forget how long we have had this Bill and how long we have had the new Interim Planning Bill and all the other Bills. We have only so much time to be able to operate on these apart from our other duties, Mr Humphries. I think that, if somebody is dissatisfied with a situation, they have a responsibility to lobby as well.

It seems to me that here we have the opportunity to ensure that the doctors have a chance to prove themselves and, if they do not, let us not forget that they have not performed on this very well at all over the last X years. So, the logical thing for us to do is to set it up so that those clauses can take effect. That recognises what the AMA wants and gives it the opportunity that it has asked for. It is the one that has put the six-month time limit on it,

so we will say, "Yes, sure, you can have your six months, but the reality is that, if you have not done the job at the end of the six months, this will take effect".

MR BERRY (8.50): I think I did not explain this in my earlier address. The Minister failed to notice that clause 43, "Failure to comply with directions", was left out of the amendment which I proposed. Mr Moore seeks to include it, but I think that gives a message to the medical profession and, of course, with the absence of any penalties, it is a significantly softer message than was the case in the first place. If the medical profession - if I can be hypothetical - fails to put in place quality assurance activities, and these clauses take effect, then I submit that the board would very quickly report circumstances where medical professionals did not comply with directions, and it would also recommend the reintroduction of penal provisions - if I can call them that - roughly along the lines of those which have been produced by the Government.

So, this is a way of making it clear to medical professionals that the Assembly means business. The Minister seems very reluctant to do that. That is a grave disappointment. I think this is a significantly softer approach than was taken in the initial legislation. I think that the advice the Minister was getting in the first place was to persist with strong legislation. I accept that he has been leant on, and I accept that he may be forced to change; but what really needs to happen is for the message to come loud and clear from this Assembly that this Assembly is the one that is going to set the standards for hospital services in the Australian Capital Territory, not the people who work within our public hospital system.

I see that the Residents Rally members of this Assembly are not terribly interested in this approach. That is an extremely disappointing position, particularly in the light of at least one of their members having some sympathy for the aged. I suspect that there may be an element of self-interest in that, because he may require these services; but, hopefully, at his age - - -

Mr Kaine: I deny that Hector or I have any personal interest in this matter.

MR BERRY: But, on average, one could expect that he might use them before the rest of us. That has nothing to do with how you look, by the way, Dr Kinloch; you are looking quite well. Anyway, I call on you, Chief Minister; I saw that you briefly supported the Opposition a little while ago with a vote that went our way, and I look forward to further support for this approach by the Labor Party. I would hope that Mr Moore would be prepared to hold off on his amendment, if the Minister for Health is prepared to agree to a strengthening of the legislation along the lines suggested by the Labor Opposition.

MR MOORE (8.54): It was just a quick attempt to compromise, Mr Speaker, but it does not seem to be getting anywhere. The precedent that you are setting up here is interesting. What you are showing yourselves to be is very upper middle class. It is true, Mr Collaery, in spite of that look. If we had approached any other part of the legislation or any other part of the crime legislation and we had said, "People have assured us that it will be okay, so we will not bother putting in penalties for rape or whatever - - -

Mr Berry: Ask Bill Stefaniak.

MR MOORE: Exactly. "The police move-on powers will be fine; we will not need to have any penalties for those". That is the sort of thing you are saying. "Look, we are giving him an opportunity, but we are not going - - -

Mr Humphries: We are giving them six months, Michael.

MR MOORE: You are saying six months and we are agreeing that six months is a reasonable way to go. I am just trying to see whether we can get logic and rational thought to prevail in this particular instance, rather than the badgerings of a few powerful lobbyists, and that is really what we have here. For the good of the community as a whole, what you should do is accept the amendment that I have put up to Mr Berry's amendment and then accept Mr Berry's amendment. It is the logical way to go. In fact, it is also what your department believed was the appropriate way to go, and in this particular instance it got it right.

Amendment (**Mr Moore's**) negatived.

Question put:

That the proposed new clause (**Mr Berry's**) be agreed to.

The Assembly voted -

AYES, 6	*NOES, 10*
Mr Berry	Mr Collaery
Mr Connolly	Mr Duby
Ms Follett	Mr Humphries
Mrs Grassby	Mr Jensen
Mr Moore	Mr Kaine
Mr Wood	Dr Kinloch
	Mrs Nolan
	Mr Prowse
	Mr Stefaniak
	Mr Stevenson

Question so resolved in the negative.

Clauses 44 and 45, by leave, taken together, and agreed to.

Clause 46

MR HUMPHRIES (Minister for Health, Education and the Arts) (9.01): Mr Speaker, I move:

> Page 15, line 33, omit "Sections 41 and 42, this", substitute "This".

Mr Speaker, this is only a consequential amendment on the removal of clauses 41 to 43.

MR BERRY (9.01): Mr Speaker, this is serious legislation and it deserves a serious approach, and well might you groan in the Opposition benches, because - - -

Mr Duby: No, no. We are the Government; you are the Opposition.

Mr Connolly: A temporary aberration.

MR BERRY: Yes, it is a very temporary arrangement. Well might you groan on the opposing benches. This clause, of course - - -

Mrs Nolan: We are just taking some words out - "Sections 41 and 42".

Mr Humphries: You have to support it, or it makes no sense.

MR BERRY: Yes, I understand what you are doing. This, of course - and there is another one of these at clause 55, I think it is, too - is a consequential amendment. But I think that each time they arise it needs to be drawn to the public's attention that the Government has deserted them and has ensured that their public hospital services will be of a lesser strength because of the Government's action in weakening its own legislation.

I think, Mr Speaker, that every attempt should be made to point out the Government's weaknesses. It has worked as far as schools and hospitals are concerned; it will work again in terms of these sorts of legislative provisions, as they are weakened by this Government.

Question put.

The Assembly voted -

AYES, 10	*NOES, 6*
Mr Collaery	Mr Berry
Mr Duby	Mr Connolly
Mr Humphries	Ms Follett
Mr Jensen	Mrs Grassby
Mr Kaine	Mr Moore
Dr Kinloch	Mr Wood
Mrs Nolan	
Mr Prowse	
Mr Stefaniak	
Mr Stevenson	

Question so resolved in the affirmative.

Clause, as amended, agreed to.

Proposed new part VIA

MR BERRY (9.09): I move:

That the following new part be inserted in the Bill after Part VI, page 15 -

"**PART VIA - HEALTH SERVICES COMPLAINTS COUNCIL**

Establishment of Council

46A.(1) There shall be established a Health Services Complaints Council, which shall consist of a chairperson and two other members.

(2) The members of the Council shall be appointed by the Minister.

(3) Of the members of the Council other than the Chairperson, one shall be a community representative and the other a qualified medical practitioner. At least one member of the Council shall be a woman.

(4) There shall be a Secretary to the Council who shall be appointed by the Minister. The Secretary shall be a person who is a member of the ACT public service.

Membership of Council

46B.(1) Each member of the Council holds office for such term as is specified in the instrument of appointment, not being a term exceeding three years, and, on the expiration of his or her term of office, is, subject to this Act, eligible for re-appointment.

(2) The members of the Council shall be paid such fees and allowances (if any) as are prescribed.

(3) The office of a member of the Council becomes vacant if -

(a) the member becomes bankrupt, applies to take the benefit of a law for the relief of bankrupts or insolvent debts or compounds with his or her creditors;

(b) the member, by writing to the Minister, resigns his or her office;

(c) the member is guilty of misbehaviour or becomes, in the opinion of the Minister, incapable of performing the duties of his or her office.

(4) Where, for any reason, the Chairperson or another member of the Council is unable to act as the Chairperson or as a member, as the case may be, the Minister may -

(a) appoint a person to act as Chairperson of the Council in place of the Chairperson;

(b) appoint a person to act in place of the other member of the Council.

(5) An action or proceeding, civil or criminal, does not lie against a member of the Council for or in respect of any act or thing done in good faith by the member in his or her capacity as a member.

(6) Meetings of the Council shall be called by the Chairperson, or by the Secretary to the Council on the direction of the Chairperson, and shall be held at such times and places as are specified by the Chairperson.

(7) The Secretary to the Council shall cause notice of the time and place fixed for the hearing of proceedings before the Council to be given to the persons entitled to be heard by the Council.

(8) The Council may adjourn the hearing of proceedings before it from time to time.

(9) The Council may take evidence on oath or affirmation and, for that purpose, the Chairperson may administer an oath or affirmation.

(10) Subject to this Act and the regulations, the procedure on the hearings of proceedings before the Council is within the discretion of the Council.

Powers of Council

46C.(1) The Council shall have the power to receive and investigate complaints about any service provided in a health facility. The Council shall have the power to receive complaints, conduct any investigation, call witnesses, have access to records and information held by a member of staff, nurse, or a consultant in relation to a service in a health facility.

(2) The Council shall have the power to determine any such matter, subject to the right of appeal to the Tribunal.".

What I intend to do in the course of debate on this issue is to demonstrate how the Government has misled the people of the ACT in terms of hospital services. Just a few days ago we heard Mr Kaine's attempt to mislead the people of New South Wales at the NSW-ACT Consultative Forum, when he said that the people of New South Wales would not have any less hospital services. Of course, they will have less hospital services. That has been shown. It has even been admitted by the Minister for Health. But the Chief Minister still tries to peddle the red herring that hospital services will not be reduced. They will be reduced. Of course, if there is not a satisfactory health services complaints council the delivery of quality health services will decline as well.

I want to demonstrate to members of the Assembly the state of the complaints unit within the Community Services and Health Department. If you have a look at the 1990 version of the telephone book and you search through until you find the Community Services and Health Department, you will find that the complaints and information unit has the same phone number as the public affairs unit. That clearly indicates that the complaints unit is really a public relations exercise, and not any more than that. What the Labor Party has set out to do, in accordance with the policy which was in place while I was Minister, is to establish a health services complaints council in this legislation. Now, what we would like to ask the Government is: is this the one it will agree to? I am just trying to draw the winning ticket in the lottery. Is this the clause that it will agree to?

Mr Humphries: To quote you, we will do it the hard way.

MR BERRY: So petty is the Government that its members will not even tell us whether they agree to the clause or not. We will press on with it. What I am disappointed about is that the Chief Minister has left the chamber and is not going to be involved in the debate.

The fact that presents itself here is the absence of any real health services complaints unit. It has not worked in the past. It certainly became clear to me that it was not working as well as it ought to when I was the Minister, and

I accept that; but this legislation has presented itself as a good opportunity for Labor to press forward with its policy of a legislative base for a health services complaints council. It would be a good thing if the members of the conservative Government opposite were prepared to endorse something such as this; but, noting that they will not even endorse the requirement for people within their system to participate in quality assurance activities, I suspect that it is hardly likely that they will accept a strong complaints unit. They will not tell us yet, but I am sure we will find out when the Minister gets to his feet.

The Minister has to accept that the power of life and death over patients is an enormous responsibility for medical professionals, and that applies to all levels of the professions. It does not apply just to medical doctors, and the Australian Labor Party recognises and supports and encourages all those professionals who continue to exercise this care with the utmost responsibility and diligence. But, at the same time, I think any abuse of such power or any negligence or any sort of deliberate act which acts against the interests of patients and users of our system must be guarded against. As members of this Assembly, we are charged with the responsibility to ensure that the guard is set up. It does not seem to me that the Government is very interested in that sort of instrumentality, but the Labor Opposition certainly is.

There is, in this city, a desperate need for a strong health complaints council. It needs to be there not only to act as a watchdog to receive complaints and to act on them, but also to act as a statutory body that would work to encourage better health care systems. As I have said, it is disappointing that the Government has been fairly lightweight in its attempts to protect our public hospital systems. This will give it the opportunity to review its position. Unfortunately - and I say this with a great deal of regret - the professionals do not have a strong history of providing publicly accessible procedures for the protection of the people in the community. In fact, the perception in the community is that the professionals spend more time protecting their own interests. That may or may not be the case, although it has been proven in some cases that the professionals need a watchdog, and they need some sort of statutory organisation to ensure that patients are protected.

I think that the secretive arrangements for the review of complaints should not continue any longer. My office is bombarded on a daily basis with complaints about different aspects of the health system. Unfortunately, there is little confidence in the current complaints unit. A survey was discussed in the *Canberra Times* last weekend - last Saturday, I think - and, as I recall, there was talk in that article about the lack of confidence in the current complaints unit. That is not a reflection on the people involved in the complaints unit; it is merely a tool of

management, and it should not be. It should be a statutory body which sets out to provide proper protection for the people of Canberra, and a statutory body that could act on complaints received, examine, investigate, call witnesses, do all of that. A legislative backing for such complaints would significantly add to that protection, and that is why we seek to include it in this Bill.

It has not worked properly in the past, but I think that the amendment which is being proposed by the ALP will go most of the way. It may not be perfect, but it certainly goes further than anything which has appeared so far in the legislation proposed by the Minister. In fact, all that has happened in the legislation proposed by the Minister has been continuous attempts by the Government to undermine any strengths that the legislation might have had to provide a better quality of services for the people of the ACT. If the Government is seriously concerned about the protection of the health interests of Canberra's residents, I am sure that it would have sought stronger proposals within its legislation.

Mr Speaker, it is about time that we got serious about a health services complaints council. This amendment, which has been proposed by the Australian Labor Party in opposition, is a serious piece of legislation which would provide a quality council appointed by the Minister. It would have the required amount of female representation, and it would be able to act properly to process complaints put before it. I think it is a worthwhile measure, and I look forward to some support from the Minister. It may be the one. This may be the lucky lottery ticket.

MR HUMPHRIES (Minister for Health, Education and the Arts) (9.18): Mr Speaker, let me ask Mr Berry this question: If I tell him which is the magic clause, will he stop calling these divisions on silly matters?

Mr Berry: There are no silly matters. If you want to have a discussion about the issues that might be - - -

MR SPEAKER: Order! Mr Humphries, please proceed.

MR HUMPHRIES: All right, Mr Speaker; I will have to keep Mr Berry in the dark. No, this is not the one. The Government will not - - -

Mr Berry: See, he was going to try to mislead me again.

MR HUMPHRIES: Yes, I was; I must admit that. Mr Speaker, the Government does not feel it can support this quite complex and long amendment. I must say that a three-page amendment detailing the creation of a whole new health services complaints council, with complex arrangements dealing with its membership, its powers, its capacity to deal with particular problems, the nature of its works, et cetera - all those things - gives me some concern in that we are expected to deal with that matter within about 24

hours of having seen this complex amendment. If Mr Berry were to complain, as he has, about the complexity of matters that he has sat down to deal with in the health services legislation - this and the other Bill - in the space of the last fortnight, how much more concerned should I be that he seeks to have a complex new stratum of medical or health service imposed on the hospital system at this late stage?

Mr Speaker, the Government is not opposed to the concept of a council; it is not opposed to the concept of improving the complaints mechanism within the hospital system. This week I met with the members of the organisation that conducted the survey last Saturday, and I received a copy of their results. I discussed with them the nature of those problems that were thrown up. A key part of their concern was the need for improved mechanisms for making complaints. It is clear to me that we do have to look very carefully at how those complaints mechanisms are established and maintained; but whether Mr Berry's concept is the best one or not, I do not know. I would be very happy to consider this amendment when we return to this place after the Christmas break; but I am not prepared to put it in the legislation, as it were, sight unseen, at this stage.

MR BERRY (9.21): That is a very disappointing response from the Minister. He made warm noises at the end of the discussion, but I am afraid we have heard so many warm noises from this Minister over a whole range of issues that they do not give me any confidence that there will be any real changes in this Government's approach to the delivery of quality services in the Territory.

It is a grave disappointment that this is not the one. It seems to me that, in terms of the delivery of hospital services, we are running out of the big ticket issues for the Government to agree to in the amendments proposed by the Australian Labor Party. But it is still worthwhile putting on the record our concern that the Government has not been able to deal with this matter. It says that it has not been able to do it within a time frame that the Minister described, as I recall, as around 24 hours. I am surprised that the Minister, with all of his resources, could not give a more positive response and a better evaluated response than the one that was given. It is all very well to say that he is interested in the provision of these sorts of complaints units; but it is not good enough to go no further than just a few warm noises which, really, in the light of his past actions in our public sector would convince nobody.

I think, Mr Speaker, that this is a very important opportunity; to use the Minister's words, it is a window of opportunity that is being passed up. This would have presented the opportunity for some kudos for the Government, particularly in the complaints area, because,

repeatedly, we receive complaints in our respective offices from members of the community who have lodged complaints about the quality of services within the system.

It is always difficult for management to accept that it has done something wrong with the hospital system. That is why the Australian Labor Party has set out to provide a statutory body that would be able to consider complaints and which would be quite separate from the management structures of the hospital system; it would be able to examine, take evidence, interrogate witnesses and, of course, make decisions about any complaints that it received and determine the matters.

It seems to me, and I think the evidence is pretty clear when you have a look at the Government's response to this legislation tonight, that the Government has gone a bit shaky in the knees about this legislation. It started out all right in terms of quality assurance, but this Minister dropped the baton when a couple of people moved in the shadows. This Minister is very easy to shake off the mark when it comes to public services. It strikes me as odd that just because one strong lobby group takes the Minister on he should drop the bundle in terms of quality services for the people. He has certainly dropped it on quality assurance. I think the health services complaints council would do a lot for quality assurance as well, and that is why it was proposed.

We are about improving the hospital services in the Australian Capital Territory. We are not about winding them back and we are not about folding to the well-off in our community. Instead, we are about looking after the not so well-off in our community - the people who are not in a strong position, the sick, the people who are not able to afford expensive private hospital services, and so on.

I think those people have a right to feel abandoned by this Government. They have a right to be angry with this Government because of its laissez-faire approach to proper regulation to protect the community when it uses our public hospital system. I know that there would be some concerns about a strong council because it would put the pressure on management and it would put the pressure on the professions, but that was what it was intended to do. Nobody who delivers quality services would have anything to worry about, and I think this complaints council would have been welcomed by those people who do deliver quality services. It is the ones who do not deliver quality services who would have to be concerned about this council.

I am surprised that the Minister seems to be protecting mediocrity within our hospital system. That has been the approach right throughout this legislation. There has been ministerial protection for mediocrity within our hospital system. I think it is an outrageous position for us to find ourselves in. When the Canberra community learns of this - and I can assure you, Mr Speaker, that it will be informed - the Canberra - - -

Mr Humphries: Yes, I can see the press release now.

MR BERRY: It has already gone. The Canberra community will be outraged by this support for mediocrity in our hospital system. It might not be outraged after the first press release; but I think that, with a little bit more effort, we will be able to get the message through that this Government has failed. It has failed to deliver the quality of hospital services and the quality of protection that people require when they use our hospital system.

Mr Humphries, as I said earlier, made warm noises about this proposal by the Australian Labor Party. I can understand that he would have an immediate philosophical concern about anything proposed by the Australian Labor Party, and that he will take it away and put it under a bright light and search for little traps. But there are no traps for the Minister in this.

What the Labor Party has set out to do is to provide a comprehensive service which would be able to guarantee to the community that all the complaints put to this council would be examined in a proper way, by a properly qualified body which had statutory authority to examine outside the existing structures. I think that is a very important aspect of this proposal; if it is outside the existing structures, it cannot be seen to be covering up for anybody. It would examine all of the available evidence very closely, and it would make decisions. That is very important, because the complaints unit that is in place now seems only to make excuses. That is why people have no confidence in it. There is not much point in having a complaints unit that only makes excuses about services. I have no doubt that there are some instances where it has been able to satisfy some of the patients who use our system, but on the whole my experience is that people have not been happy with the complaints unit.

What the Australian Labor Party has set out to do for constituents in the Australian Capital Territory is to produce a council which those constituents would be happy with - not something that they would question. They would be entirely happy with its independence from the existing structures and they would be entirely happy that their complaints would be well examined and that when they received a determination from the complaints council it was made in accordance with established and accepted practices. I will waste those last 14 seconds, Mr Speaker.

MR JENSEN (9.31): Mr Speaker, I wish to comment very briefly on the proposal by Mr Berry. I note his comments about this amendment to establish a health services complaints council. I think that the majority of members in this house would accept that the concept that he has suggested is probably quite sound. It may be that it is the method by which this concept is to be put into place that one has to look at very carefully.

It is a very important process, Mr Speaker, and it is something that should not be passed on the run. I seem to recall that Mr Berry - he is not listening; he is too busy chatting away there - has continually told us all night and all day how important this legislation is. So, I think that, rather than drop these complex amendments on the table and ask for immediate support within a period of 24 hours, it would be more appropriate for the Minister to give - as he has already indicated - his support for a longer term consideration of this proposal.

I welcome that suggestion by the Minister that he is prepared to examine this concept in a rational manner. I think that this requires consideration and consultation. I note that, in Mr Berry's comments during his debate on this matter, not once did he mention the degree or the nature of the consultation that he, in fact, had in developing this particular piece of legislation. I think that probably says volumes for it as well. I also wonder whether Mr Berry had a similar discussion with the group that Mr Humphries referred to in his previous remarks.

Mr Berry: Give me leave to speak again, and I will tell you about it.

MR JENSEN: I am sure, Mr Berry, that you will find other opportunities throughout the debate to speak of it. I welcome the concept behind what Mr Berry has proposed, and I also agree with the Minister in relation to the fact that this is a matter that should not be passed, but due consideration should be given to it.

MR MOORE (9.33): Mr Speaker, it is interesting to hear so many people making warm noises about Mr Berry's suggestion of such a council. It is such a positive thing. I can see that, with such a bipartisan approach, before long members of the Assembly will be jumping to get in together. They will be jumping together and they will think that this is such a great idea that it will be implemented before too long. It just seems that they do not want to include it in this legislation. Since everybody is feeling so warm about it, it would be logical to include it. But I see that that is not going to be the case.

So, I shall look forward to seeing the matter discussed early in the new session next year. No doubt Mr Berry will bring it up in private members' business, and we can amend our new legislation then. It seems such a shame that we are here tonight with the legislation out, yet we are going to be forced to waste private members' business in amending that legislation. I hope, considering the discussion that has gone on tonight and the general level of bipartisan agreement, that this matter will be a very brief thing in private members' business. I hope that we will actually get to a stage where this can be discussed on both sides of the house, and can, more or less as a formality, be brought through the house in private members' business.

I must say congratulations to Mr Berry for bringing it up and introducing it at this stage. It is disappointing that it is not going to be added to the legislation tonight; but no doubt it will be part of it soon, in the same way as the removed clauses that we dealt with before - and I do not wish to reflect on the vote - will be dealt with again in about six months' time.

Question put.

The Assembly voted -

AYES, 6	*NOES, 10*
Mr Berry	Mr Collaery
Mr Connolly	Mr Duby
Ms Follett	Mr Humphries
Mrs Grassby	Mr Jensen
Mr Moore	Mr Kaine
Mr Wood	Dr Kinloch
	Mrs Nolan
	Mr Prowse
	Mr Stefaniak
	Mr Stevenson

Question so resolved in the negative.

Clauses 47 to 50, by leave, taken together, and agreed to.

Clause 51

MR BERRY (9.38), by leave: Mr Speaker, I move:

6. Page 17, paragraphs 51(1)(a) and (b), lines 8 and 9, omit "capital".

6A. Page 17, after subclause 51(2), insert the following new subclause:

"(3) All transactions for the sale or purchase of goods and services by and or on behalf of the Board in excess of two thousand dollars shall be advertised in the *Gazette.*".

Mr Moore: That will cut the time in half. What a responsible attitude!

MR BERRY: I think it is. It is a great pity that we cannot get such a responsible attitude from those people opposite.

Mr Speaker, Mr Jensen raised something a moment ago about consultation. Mr Jensen seems to misunderstand the situation when it comes to introducing legislation in this place. You see, the Opposition does not really have much control over the way the Government introduces the timing that it seeks to use in the introduction of its

legislation. So, the consultation processes that the Opposition would like to follow cannot, in all circumstances, be guaranteed. But one thing that Mr Jensen would understand - although his party has evaporated around him these days - is that the Australian Labor Party, for one, has a practice of strong consultation with members of the community in the development of its policies. That is why we have such a strong policy on the protection of patients' rights. We have made it clear that it is our view that professionals within the hospital system have to be accountable. The Government is not as sincere in that respect as we would like it to be.

Mr Deputy Speaker, you are the terror of the ACT Assembly. I do not mean that to be hurtful, Mr Deputy Speaker; but I still remember being traumatised by that which you inflicted upon me when you were last in the chair. And I am reminded of that from time to time.

This issue, Mr Deputy Speaker, is about the letting of contracts for disposable and reusable items for our health system. I will just give you an example. When Labor was in office, I saw the oddest proposal from a consultant which - - -

Mr Humphries: Yes, you told us yesterday.

MR BERRY: I will tell you again, just so that you do not forget. This person was going to provide a service to the Department of Community Services and Health for nothing. It was probably worth $50,000 or $60,000 in a consultant's terms, yet this service was going to be provided for nothing. I was a bit puzzled by this, and I thought to myself, "I wonder why somebody would do something worth so much money for nothing". Pretty soon it dawned on me that that consultant expected, in the long run, to get some work for the provision of a free service. In my view that is way over the top. If that particular consultant felt that he was able to offer that service, he must have felt that the systems within Community Services and Health would allow him to gather a large and profitable contract as a result of him offering a free service. That is not something which the community in the ACT would accept. In fact, it borders on being something which might more appropriately be decided by the courts in Queensland.

It seems to me, Mr Deputy Speaker, that we have to guard against those sorts of issues. We have to guard against the perception in the community that something is wrong with any of our contracting systems. As far as I can make out, there is not as much scrutiny of contracting arrangements within our health system as there is in other departments. I think that it is most appropriate that we should join together to improve the situation, and I ask the question: is this the one that the Government might agree to?

This sort of activity has to stop. I hope that we will have the support of Government Ministers, but they have been a little bit shaky on some of the other propositions that I have put up. In fact, I cannot recall one that has been successful so far. But this one is an important one and I am looking forward to having the support of Government members of both the Public Accounts Committee and the Estimates Committee, as both of those committees have witnessed an incredible lack of accountability in our health system over the expenditure of taxpayers' money, even to the point where senior officials of the health department were arguing that completely inaccurate and expensive advertising which had been placed all over Australia was okay. It was very difficult to see an argument that was possible to justify those sorts of actions, but they were convinced - or they were trying to convince the committee - that it was correct. I must add that they did not have much success, and that was quite appropriate.

What we have set out to do with these amendments is to strengthen the contracting arrangements to ensure that there is accountability for the expenditure of taxpayers' money in our health system. Again, Mr Deputy Speaker, it is clear that we can do better, and again I look for a glimmer of support from the Government for this amendment. It is a responsible - - -

Mr Moore: This is probably the one.

MR BERRY: Is this the one, do you think, Mr Moore?

Mr Moore: It could well be.

MR BERRY: There is only one other one left after this and I doubt whether they will support that one, so I think this may be the one. It is a responsible amendment. It is disappointing that the legislation contained a clause that required that sort of amendment to be proposed; but I am quite happy to have proposed the legislation, and I thank the staff of the Labor Opposition's office for their close scrutiny of the Bill that was put up.

Mr Humphries: Thank your mother, too.

MR BERRY: Mr Humphries said that I should thank my mother, too. But I think that would probably be more appropriate in the adjournment debate, and there are a lot of other people who would thank my mother too, except for you, Mr Humphries.

Mr Humphries: Are there? Oh, dear, I would not thank your mother; no, not at all.

MR BERRY: She is a wonderful woman. This is something that I think the Government ought to take on board. It is a responsible approach to contracting arrangements within our hospital system, and I urge the Government to support it.

MR HUMPHRIES (Minister for Health, Education and the Arts) (9.47): Mr Deputy Speaker, I suppose perseverance pays off, and Mr Berry has hit the jackpot. The Government will be supporting the amendment proposed to clause 51(1).

Ms Follett: What took you so long? All the others were just as good.

Mr Connolly: All things come to those who wait.

MR HUMPHRIES: He almost talked me out of it, but I thought we would accept it in the end. So, the amendment to clause 51(1) is accepted; however, not the amendment adding subclause (3) to clause 51. He has a rather strange expression for that. He has here "clause 51(1), page 17 insert a new paragraph". I think he means just clause 51. Making that assumption, I do not think we can support that position, for several very simple reasons, Mr Deputy Speaker.

With respect to tendering, the Government already has a purchasing policy, and it is a policy with which Mr Berry presumably is familiar, since he has sat on these benches. The purchasing policy sets out the procedures which should be undertaken by all Government authorities when purchasing goods and materials. What Mr Berry is doing is setting in place here a particular requirement for a particular purchasing policy. In the first place, he is setting that policy in legislation, which is not, I would have thought, a sensible idea, because, given that these things do change from time to time, it would have to be amended whenever that occurred. If purchasing policies were set out in the creation of every statutory authority or semi-government organisation, we would be forever in this place amending minor provisions that deal with such things as tendering policies. So, for a very good reason, we do not put details of tendering policies into legislation, as Mr Berry was in office long enough to realise.

But, certainly, even if we did, to set a limit of $2,000 would be, with respect, an absolute administrative nightmare. In general, the threshold for tendering, for advertising the purchase of services, is $50,000. Why ought it to be $50,000 for every other part of the administration - and I assume that was the case when Mr Berry was Minister ostensibly - and only $2,000 in respect of the ACT Board of Health? No reason is given by Mr Berry. Presumably he operated under the $50,000 limit when he was Minister. I ask him to answer this question when he speaks again: why is it that we should accept $2,000 in this case when he himself accepted the $50,000 limit when he was in office?

Before I finish, Mr Deputy Speaker, Mr Berry did mention today and yesterday - there is a fair bit of repetition going on here - that there was a case which would not have happened had this legislation been in force, and he

mentioned the case of the consultant who offered his services for free. This is another curious example of Berrynomics. If the person were to offer his services for free, he would not be caught by a $2,000 limit. However, that has obviously escaped Mr Berry, and I will rest the case there.

MR DEPUTY SPEAKER: The question now is: That Opposition amendment No. 6 be agreed to.

Amendment agreed to.

MR DEPUTY SPEAKER: The question now is: That Opposition amendment No. 6A be agreed to.

The Assembly voted -

AYES, 7	*NOES, 9*	
Mr Berry	Mr	Collaery
Mr Connolly	Mr	Duby
Ms Follett	Mr	Humphries
Mrs Grassby	Mr	Jensen
Mr Moore	Mr	Kaine
Mr Stevenson	Dr	Kinloch
Mr Wood	Mrs	Nolan
	Mr	Prowse
	Mr Stefaniak	

Question so resolved in the negative.

Clause, as amended, agreed to.

Clauses 52 to 54, by leave, taken together, and agreed to.

Clause 55

MR HUMPHRIES (Minister for Health, Education and the Arts) (9.55): I move:

> Page 18, paragraphs 55(a) and (b), lines 13 to 16, omit the paragraphs, substitute the following paragraphs:

"(a) varying or withdrawing the clinical privileges of a health services consultant under subsection 44(1);

(b) varying, suspending or terminating the engagement of a health services consultant under subsection 44(2); or".

It is a consequential provision on the deletion of clauses 41 to 43.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 56 agreed to.

Clause 57

MR STEVENSON (9.56): My major concern with this clause was that there may be a situation where justice may not be done because either a member of a board or a committee or the board itself was not able to be sued. I am assured by the Minister and the legal department that that is not the case; that there is no single situation where either a member or the board could not be sued. However, there are some points that I wish to make along that line.

Concerning the idea of good faith for an individual member in clause 57(1), that good faith does not actually include negligence, so someone could well act in good faith and be absolutely negligent. I think the incentive to accept greater responsibility would be better if someone was also responsible, personally, for personal negligence. That is, of course, the situation in a business matter; if someone is a company director and is negligent, though he acts in good faith, he certainly would be held to be negligent.

Another situation could occur if someone who is a board member is negligent, but is under the protection of the good faith clause. In that case the board is going to use public money to cover his negligence, and I think perhaps it would be reasonable if the public did not have to pay for personal negligence by members of the board.

MR DEPUTY SPEAKER: Mr Stevenson, I am sorry to interrupt you, but I take it that you are not now moving your amendment?

MR STEVENSON: I am still moving it.

Mrs Nolan: You have changed your mind again.

MR STEVENSON: No, I did not change my mind. I intended to move it. I never said that I would not. What I said was that I have been assured that the major reason why I was moving it is not a concern. There are also other reasons why I will move it.

One of the suggestions is that, if we do not protect board members from personal liability, they will not serve on a board. I do not necessarily think that is a compelling argument. I think that because of the prestige involved, because of the personal power involved, and because of the potential of money - not necessarily by being paid, because in this case they are not - being a board member would certainly not do someone's future job prospects or career prospects any harm.

The major point is that, if someone can sue a member, if he or she is held to be acting outside his or her responsibility and hence is negligent, or if the board is vicariously responsible, even if the member is not in some

way, then my major concern is covered, although I still feel that there are other benefits from including personal liability for negligence.

MR DEPUTY SPEAKER: Before you sit down, Mr Stevenson, I take it that you formally move your amendment? Would you just formally do so?

MR STEVENSON: I move:

> Page 19, subclause 57(1), line 3, after "to be done in good faith", insert "and without negligence".

Amendment negatived.

Clause agreed to.

Clauses 58 and 59, by leave, taken together, and agreed to.

Clause 60

MR BERRY (10.00): This is a controversial amendment. I do not expect the Government to support it, because it has indicated that it is concerned about keeping secrets within our hospital system and protecting the cover-up of problems. Secrecy clauses, generally, have no place in a modern society. If you listen to me as I go on, then you will come to an understanding of what I am talking about. I think that I can say this in the light of recent examples and reports of the heavy-handed bullying of staff at media outlets by senior health bureaucrats. I have to say that I am outraged that the Minister and the Attorney-General have not taken a more modern approach to the secrecy provisions in this legislation, and that is why the amendment is being moved by the Australian Labor Party.

Our health system has to be opened up, and it has to bring all of the issues which are of concern out into the open. There has to be trust in our health system. There will not be trust while ever there are secrets. The Government will stand condemned because of its acquiescence to the provision of a professional guardian for professional standards. It really ought to have some community involvement in it. The Government will stand condemned if it does not do something about these secrecy provisions. For example, would this Government gaol a nurse or fine a nurse $5,000 for alerting the public to an incident where some person had been killed in the hospital system?

Mr Humphries: That is what the protection of the quality assurance provisions is all about.

MR BERRY: You have unloaded them too. You have unloaded the quality assurance provisions. The fact of the matter is that what we are setting out to do is to ensure that people are able to speak out about the awful things that might happen in our system. That is not to say that every

day there are things happening that are going to be announced by disgruntled employees, and so on and so forth. It is about people being bound to say nothing about individual instances where they ought to be able to say something.

Would the Government gaol a doctor for blowing the whistle on a colleague? Under these provisions, I suggest that it would.

Mr Humphries: Quality assurance should cover that.

MR BERRY: What quality assurance? There is not any. Would this Government gaol somebody for telling taxpayers that they are being ripped off by a corrupt tendering process? Would the Government gaol somebody for exposing another Dr McBride? I think that under this legislation it would. If this Government supports cover-ups of that magnitude, then the answer to all of those questions is yes, yes, yes and yes.

If the Government is concerned about the protection of patient confidentiality, and if that is what it is saying it is concerned about, then we agree with that. But you have to have privacy legislation which is not so draconian, and that is what this boils down to. What I would be seeking from the Government is an indication that it would be prepared to go to the Privacy Commissioner to look at the development of more modern legislation which was not as draconian as that proposed here.

This is reminiscent of what went on in the Dark Ages. It strikes me that if the Government wants to do something positive in relation to this legislation - and it has not demonstrated that it has a willingness in that direction so far - it could say to us, "We are going to the Privacy Commissioner. We will consult with you and the community about the introduction of new and more modern legislation". Then the Labor Party would drop off the issue and wait for an improvement in the situation.

If the Minister is prepared to give that sort of indication to us - and the indication that I am looking for is that there would be an approach to the Privacy Commissioner to introduce more modern legislation - then the Labor Opposition would be prepared to drop this matter for the moment. I think that there needs to be a closer look at this issue, and I would like to hear what the Attorney-General says on this matter. Nobody would argue against the protection of confidential material. There is no doubt about that. But it has to be done in a more modern way, and that is certainly not the case under this legislation. Personal confidentiality is gone.

Plenty of examples have been publicised of professionals protecting their own within the system. This sort of legislation tends to offer that sort of protection, and we really need to ensure that the public is confident that the legislation passed by this Assembly is not so protectionist of perceived conspiracies within our hospital system. As I have said, patient confidentiality has to be preserved, and it has to be done in a modern way; but we have to ensure that those awful mistakes that have been made and reported, involving health professionals in hospital systems, cannot in any way be covered up. We have to ensure that malpractice within our hospital systems cannot be covered up by these sorts of secrecy provisions. Everybody can conjure up in their own minds the consequences of covering up those sorts of malpractices. There are people who have been injured within hospital systems and, dare I say it, are no longer in this world because of things that have gone wrong in hospital systems. It is a matter of fact that people will continue to die in our hospitals. That is the very nature of them. But what we have to ensure is that the public has the utmost confidence in the services that are being delivered and it has the utmost confidence that any malpractice will be uncovered.

I say to you, Mr Deputy Speaker, that the public does not have that utmost confidence right now, and these secrecy provisions will do nothing to ensure that the public confidence will be improved. I say to the Minister that there is a need to develop a more modern approach to this whole question. There is a need for the protection of confidential information about individual patients, but there is also a need for provisions which allow important information to be released to ensure that there is confidence within the community about the services which are delivered in our hospital system. I think this legislation presents an opportunity for the Government to give a commitment that it will examine the case for change in these sorts of provisions. I do not seek to make any political points about the issue. It is something that has been uncovered, and it is a matter of concern to the Australian Labor Party.

MR MOORE (10.11): It seems to me that the issues that Mr Berry has raised are very important issues in terms of open government. What we have is a situation where, of course, people are concerned about the confidentiality of personal files. It is quite appropriate that they should be, and it is quite appropriate that the legislation should provide their protection; but what we have here is a Government which has made its announcement about a health board and decided that it had better get to and whip up the legislation as quickly as it could without proper consideration, and this is where we run into this sort of problem. The process that was followed was totally inadequate. The result of the process is that the powers are much broader, I am sure, than the Minister ever intended. They are so broad as to provide almost Gestapo-like powers to the members of the board as far as

secrecy goes, and particularly to the Government itself. The protection of a government and government officers in this manner is totally out of hand.

I think it is most important that this issue be considered carefully. I think it is appropriate that Mr Berry has brought it up. However, we are clearly in difficulties. I see people running around trying to consider whether or not they can find a compromise. I think the appropriate thing to do in this case is to go with the legislation that has been rushed through and put it through at this stage, but it really needs careful reconsideration and certainly needs discussion between members of the Government and other members in this house.

At this stage I am not going to oppose this particular clause, and the reason I am not opposing it is that the highest priority in the short term is the confidentiality of those documents. However, it is most important that we consider this clause very carefully and we understand the ramifications of this clause and the secrecy as it applies across all government departments. This kind of secrecy provides a situation that does not best serve the community, and it is incumbent upon us to do our best to ensure that we can run an open government. Almost every party that went to the last election of this Assembly with a platform actually had a platform of more openness in government, and I think it is important for us to look for ways to make sure we achieve this - not just with reference to this legislation, but in other places where this sort of legislation appears as well.

MR CONNOLLY (10.14): I rise to support Mr Berry on this point. It is a very important point that Mr Berry has raised on this secrecy provision. The Government could answer that this secrecy provision is modelled on secrecy provisions found in other ACT legislation or, indeed, other Commonwealth legislation, but - - -

Mr Humphries: In State legislation.

MR CONNOLLY: There are similar provisions in Commonwealth legislation and, as the Minister says, there are similar provisions in State legislation; but the point that Mr Berry made was that we really should be looking at whether this is necessary. We should be looking to the Privacy Commissioner to advise on whether this form of secrecy provision, though a common form, is still appropriate. An important point to be made is that all of those precedents that we keep repeating as secrecy provisions can be traced back to an era of government before FOI legislation, before concepts of privacy were regarded as important, to an era when all government decisions were made behind closed doors, and all government documentations were regarded as sacred tablets, never to be released to the public.

So, although there are plenty of precedents for this type of secrecy provision, in a modern age it really is no longer appropriate. Modern privacy commissioners, well versed in these issues and with a degree of expertise on privacy matters, ought to be asked to have another look at this type of secrecy provision and to say whether it is still appropriate for legislation which is to carry us into the 1990s and beyond.

MR HUMPHRIES (Minister for Health, Education and the Arts) (10.16): Mr Deputy Speaker, I did not catch what Mr Connolly was saying about the matter. I do not know whether he made reference to the Privacy Commissioner. Mr Deputy Speaker, I have had some concerns raised - - -

Mr Connolly: I was just wasting my breath.

MR HUMPHRIES: That is a common problem for the Labor Party in this place. Mr Deputy Speaker, the Government hears what those opposite say about this provision.

Mr Connolly: You just said that you did not hear.

MR HUMPHRIES: I am saying that in general terms we hear the tenor of your concerns and we are not insensible to them. It is important to protect people within the hospital system and to preserve the confidentiality of people's records; that is the intention of this provision. I think that the title of "Secrecy" to this clause is unfortunate. I think from memory that this is not a part of the Bill that can be amended separately from the Bill. I think the title is part of the Bill, so perhaps that should be changed.

Nonetheless, Mr Deputy Speaker, I propose that this provision should be enacted as an important part of the protection which is, I am advised, provided in every piece of legislation of this kind in the country. I would be reluctant to take it out merely because there are some concerns about it at this point; but I would be very happy to refer matters of concern in this, particularly as far as privacy is concerned, to the Privacy Commissioner. I have spoken with the Attorney-General and he has indicated to me that he would be pleased to make a reference to the Privacy Commissioner in those terms.

I realise that that does not leave the situation in a state of any perfection, but I appeal to those opposite to bear in mind that it is more important to have protections for people in there than to leave that clause out and provide no protections whatsoever. As I have said before, I would be very happy to come back to this place and put forward and support amendments to legislation when defects raised by those opposite have been shown to have been validated.

MR STEVENSON (10.18): Mr Deputy Speaker, I agree with Mr Humphries when he says that he thinks it is important to maintain protection, but I would look at protection from the other viewpoint. If there is a situation that involves someone with the potential of being injured, or someone has been injured, that needs to be reported. If a person inside the system is not getting the satisfaction that they should, they should have the right and responsibility to go outside the system and talk to whoever they need to. They need to get the message out, be it the newspapers or whatever, and there should be no penalty for that. It could be a matter of health. I think that is the greater protection that is required. I think that the reasonable thing to do is not perhaps to make the changes later on but to delete the clause now and then, as soon as possible, fix it up, but in that time do not prevent someone from blowing the whistle when they should be able to do that.

MR COLLAERY (Attorney-General) (10.19): I endorse just about all I have heard, except really it is a question of the process. My colleague Mr Humphries rightly speaks of privacy, but at the same time other Assembly members mention the balance that has to be achieved to allow fair and reasonable access to matters that should be in the public domain.

To my knowledge, the medico-legal committee of the AMA takes a strong interest in this matter, or it did when I was last in practice. You used to find situations where the lawyers would subpoena all of the medical records of someone. Often, say, a woman who was pursuing a personal injuries claim would have all of those personal, private records relating to procedures unrelated to the motor vehicle accident subpoenaed. In the private world, it is very hard to prevent that information from being returned with the subpoena. That is an invasion of privacy that happens constantly in the private arena.

In a public area, at least the public health authorities seek to defeat those fishing inquiries where lawyers instructed by insurance companies go on a fishing expedition to see what the private medical procedures and experiences of persons who otherwise have quite legitimate claims have been. This is a very complex matter that has entertained the medical and legal profession for some time in this city. Members will recall an outbreak of bickering between the AMA and the lawyers of this town within the last year or two.

Essentially, I agree with my colleague, the Minister for Health, in that we should have this matter looked at soon by one of our appropriate reform committees. I do not want to make an immediate decision on my feet as to which is the correct point of reference. Perhaps it is the Community Law Reform Committee. Perhaps it is that this matter be included in our privacy legislation, but I doubt that that would happen unless we have had a consultative base to it. The Criminal Law Consultative Committee is also involved in

the reach of some of this material. All I can say is that I will accept the point made by the Minister for Health and see that this matter has an early referral. I will make a statement to the Assembly at our next sitting as to what I have done with this issue.

I think Mr Connolly was right when he said that this provision is parented by other Acts. One such one, as Mr Connolly knows, is section 92 in the Legal Aid Act. It is currently having, for me, what I believe to be the unintended result that no-one on that commission can divulge to me matters relating to legal aid issues where I might, as Attorney, quite properly want to help a party. I cannot be told the facts so that I can intervene. So, there are some unintended situations. It is a matter that requires review. I take Mr Berry's point. I hope that in the next sittings I will be able to announce, with the agreement of the chair of the Law Reform Committee, the Honourable John Kelly, or through some other process, an examination of this type of provision.

In the meantime, I think the privacy issue, particularly for patients - people undergoing procedures - might be the prudent way to go. We need to leave this style of provision standing until we can look at it with the rest of those laws dealing with instrumentalities that hold a lot of personal information about us.

MR BERRY (10.24): It is regrettable that we have found ourselves in a position where contention about these provisions is being debated across the floor. However, on the positive side, it is good to see that the Ministers opposite have recognised the need to examine further the secrecy provisions of this legislation. I welcome what I have described earlier in the debate on these issues as the warm noises from Minister Humphries - - -

Mr Collaery: Oh, a bit more than that.

MR BERRY: Mr Collaery says that they are more than that in his own case. I accept that very early in the new year we will have a statement from the Government about the future of those sorts of provisions in this legislation, and perhaps about those sorts of provisions which exist in other ACT legislation as well. I welcome that, Mr Deputy Speaker. We look forward to some positive results in that respect.

The Opposition will continue to pursue this issue because secrecy provisions which can be described as draconian have to be ruled out. I accept that those provisions need to be examined closely by people in the light of day, and that they have to be restructured very carefully. I look forward, Mr Deputy Speaker, to a positive response from the Government in the new year.

MR STEVENSON (10.25): Mr Deputy Speaker, I make the brief point that I think we agree that there are some matters that need to be looked at with this particular legislation. The point I made yesterday in the matter of public importance was that there are Bills - and this is one of them - that have been introduced in haste and without sufficient time to go into the matters that we are trying to go into on the floor of this Assembly. It is quite long legislation. For that reason, I think we would do well to adjourn the matter. I move:

> That the debate be now adjourned.

Question resolved in the negative.

Clause agreed to.

Remainder of Bill, by leave, taken as a whole.

MR DEPUTY SPEAKER: The question now is: That the remainder of the Bill be agreed to.

The Assembly voted -

AYES, 10	*NOES, 6*
Mr Collaery	Mr Berry
Mr Duby	Mr Connolly
Mr Humphries	Ms Follett
Mr Jensen	Mrs Grassby
Mr Kaine	Mr Stevenson
Dr Kinloch	Mr Wood
Mr	Moore
Mrs	Nolan
Mr	Prowse
Mr Stefaniak	

Question so resolved in the affirmative.

Clause 58

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

> That clause 58 be reconsidered.

MR MOORE (10.30): I move:

> Page 19, line 34, after "writing", insert "and wearing a photographic identity card validated".

The Scrutiny of Bills Committee drew attention to clause 58. It said:

> Clause 58 provides that
>
> > The Minister or a person authorised in writing by the Minister may, at any reasonable time, enter and inspect any premises occupied or used by the Board.
> >
> > To prevent entry by impostors into what could be very sensitive areas, perhaps the clause should provide that any person authorised by the Minister should have an identity card or other formal identification issued to him or her. Perhaps it should also provide that entry may be refused if the identity card or other formal identification is not produced.

For that reason, I have suggested this very simple and easy amendment, which would have the clause read:

> The Minister or a person authorised in writing and wearing a photographic identity card validated by the Minister may, at any reasonable time ...

I think it is a fairly simple exercise to implement what the Scrutiny of Bills Committee suggested. It provides very little difficulty. But what it does draw our attention to - and I take this opportunity to say so - is the fact that this Bill has been rushed through in order to, for some reason, save face - if he has some - for Mr Humphries. In fact, a series of things like this have been done. It was a simple amendment. It ought to have been done by the Government - or at least provided for as an amendment by the Government to follow up that recommendation. I cannot for the life of me see why it has not been done, other than because of this same problem we have had with these rushed through Bills when there was no reason for it to be a rushed through Bill.

What we should have had was Mr Humphries announcing some time ago that he would establish a Board of Health. And, if he could not get the legislation together with enough time for consultation, he should have said that we will deal with this legislation in eight weeks time or put the legislation on the table and let it sit over this Christmas period. That would have been the logical way to do it and we could have come up with a decent piece of legislation instead of legislation that we are already sitting here tonight planning to amend.

MR CONNOLLY (10.33): I would certainly support the comments that Mr Moore made, but there is another point to which I think the Minister's attention should be drawn. Last time I made some remarks the Minister missed them; so I would like to drag the Minister away from his Christmas cards for a minute.

The question arises from this entry power, Minister, in that the entry power is to "enter and inspect any premises occupied ... by the Board". I am wondering whether the intent is merely to enter premises or whether an intent is there to enter premises and, for example, inspect documents, open filing cabinets and look for records. It is somewhat vague. We would be concerned about such a far-sweeping provision. If it is a power to simply look at a room, I am wondering why it is necessary. It is an odd provision to be limited to inspecting premises, unless you are doing it merely to make sure that there is no rising damp in the walls. So I would like an explanation from the - - -

Mr Humphries: To see that they comply with health standards. This is the Minister being able to inspect premises of the board.

MR CONNOLLY: So, this is merely for health standards of premises occupied by the board; there is no intention to look at documentation?

Mr Humphries: Well, I would not have thought so, from looking at those words, no.

MR CONNOLLY: I am glad to hear that. The explanatory memorandum merely repeats the provisions of clause 58, and it did occur to me that there may have been some intention to give a broader power of inspection. I am reassured to hear that there is not.

MR HUMPHRIES (Minister for Health, Education and the Arts) (10.35): Notwithstanding all the snide comments about secrecy and haste and so on, I am prepared to consider Mr Moore's suggestion, notwithstanding that it comes after the Bill had sat on the table for two weeks without it having been suggested. Presumably Mr Moore has made the suggestion while he has been sitting down here on the floor of the house, so I do not think he is in any position to complain about things being done in haste.

Nonetheless, being an eminently reasonable and intelligent man, I am extremely happy to consider Mr Moore's suggestion, but not in the form in which he proposes it. I am advised that the form of words he puts forward would have the effect of putting into question the issue of validation by the Minister of every person's identity card every time it was to be used to enter premises, and that is an unintended complication which would make it very difficult in practice to be sure of being able to effectively administer the power provided for in clause 58.

I propose therefore that, rather than take the words put forward by Mr Moore, instead, following the word "Minister", where it appears for the second time, we insert the words "and wearing photographic identification". The effect of that would be that a person needs to have two qualifications. Firstly, they would need to be authorised by the Minister in writing, as it appears there; and, secondly, they would need to be wearing photographic identification.

That should indicate clearly that the person has the authority and has identification of who they are. I think that covers Mr Moore's concern and would certainly not be an administrative nightmare requiring me, as Minister, to be signing people's identification cards saying, "Bloggs is really Bloggs", or whatever. That was not, I think, Mr Moore's intention.

Amendment, by leave, withdrawn.

Amendment (by **Mr Humphries**) agreed to:

Page 19, line 34, after "Minister", insert "and wearing photographic identification".

Clause, as amended, agreed to.

Bill, as amended, agreed to.

SUSPENSION OF STANDING ORDER 76

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

That standing order 76 be suspended for the remainder of this sitting.

HEALTH SERVICES (CONSEQUENTIAL PROVISIONS) BILL 1990

Consideration resumed from 29 November 1990, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 16, by leave, taken together, and agreed to.

Clause 17

MR BERRY (10.41): This clause relates to the secrecy provisions of section 60 of the new Act. The issue was raised as a consequence of the Labor Party's opposition to section 60 of the new Act. I note again that the Ministers opposite have clearly indicated that there will be an examination of the secrecy provisions within the new Act, and that there will be a report back to this Assembly at an early date in the new year. That is good news for those who wish to remove any draconian provisions that may apply in this or other legislation.

It is, unhappily, an issue that has crept into the legislation because of the very hurried approach which has been taken in putting this legislation before this place. That has all been said before. I want to repeat it only enough times to make sure that it sinks in properly. But I think the message is loud and clear, even though it might upset some of those opposite. I look forward to the report from the Government in relation to any changes that we might expect in secrecy provisions such as are in this legislation, and such as might be in other legislation which can be amended in some way by members of this Assembly.

MR HUMPHRIES (Minister for Health, Education and the Arts) (10.43): I simply say that the argument I put in the debate that ensued on the previous Bill stands. I have nothing further to add on that score. For the same reasons, members should support the clause.

Clause agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill agreed to.

MOTOR TRAFFIC (ALCOHOL AND DRUGS) (AMENDMENT) BILL 1990

Debate resumed from 11 December 1990, on motion by **Mr Collaery**:

That this Bill be agreed to in principle.

MR CONNOLLY (10.44): The house having spent some time debating the previous matters, I am sure the Government will be pleased to learn that we, indeed, agree with Mr Collaery in relation to this Bill. In fact, they would be even more pleased to hear that there are three matters on which we agree with Mr Collaery today. We agree with him

on this Bill, we agree with him on the next Bill, and we agree with his view of Mr Humphries that we read about in the paper this morning.

The Motor Traffic (Alcohol and Drugs) (Amendment) Bill, of course, implements the final part of the 10-point package on road safety. I think it is really appropriate this evening that we congratulate the Federal Minister, Mr Bob Brown, who was the driving force behind this 10-point package. The ongoing carnage on Australian roads is something that has long been complained about, but Federal governments have never really seized the initiative to propose uniformity of law. However, it was the Federal Minister who took the initiative at a conference in Perth earlier this year. I am not sure whether it was at that conference that we read about the Minister falling asleep, or whether that was another one of the conferences. It was a conference in Perth earlier this year, and all States and Territories agreed with the initiative of Mr Brown to introduce this 10-point package. Earlier in the sittings we saw other points being implemented as amendments to the Motor Traffic Act.

This is perhaps the most important amendment, as it affects the community. It is certainly the most widely talked of amendment, because it affects the alcohol limit for drivers. The amendment reduces, in effect, the level from .08 to .05 generally, and introduces an even lower level of .02, which is, in effect, a zero alcohol level. It really means that a person cannot drink. It is .02 for the obvious reason that a person may be on some mild form of medication or have partaken of port-dipped fruit cake and not have a zero reading. For all practical purposes, a .02 blood alcohol reading is a zero alcohol reading. It simply means that persons who drive heavy motor vehicles - vehicles of over 15 tonnes - people who drive public motor vehicles, or people who drive vehicles that are carrying dangerous goods simply cannot drink at all, and then drive. That is a situation that has, in fact, achieved fairly broad community acceptance. One could have perhaps expected some opposition to that, but it seems to be generally supported in the community as the inevitable consequence of concern on the road toll.

The other amendment, of course, relates to younger drivers, or inexperienced drivers, and provides that a person under the age of 25 years who is not an experienced driver - that is, a driver who has had a licence for more than three years - must also subscribe to the .02 level. I suppose there could be an argument that that inexperienced driver rule ought not to apply just to persons under 25. Indeed, a person at 30, 40, 50 or 60 who first gets a licence may be seen as an inexperienced driver. Perhaps there is a case for that rule to apply to them as well; but statistics clearly show that it is the under-25-year-olds who, sadly, figure most heavily in the road toll and, sadly, most often have a concentration of alcohol in excess of the legal limits.

This is certainly an acknowledgment by the Government of the seriousness of this type of offence, the drink-driving offence. It was unfortunate that earlier this year, in relation to the activities of a Minister, we heard a lot of rhetoric from the Government bench that drink-driving really was not, in the scheme of things, a crime, that it was really something that was not particularly serious, and that it certainly did not warrant ministerial resignation.

I was, indeed, interested some weeks ago to see in the Canberra Times the views of the superintendent of the traffic branch who was referring to drink drivers as being, in some cases, no better than murderers. I think that was his phrase. This is a serious problem in Australian society. This was a real carrot and stick exercise. This was not just a Commonwealth-State consultation. It was as a consequence of the bold action of a Federal Minister who held out significant funding proposals to force the States and Territories into agreement on this. As a result of that initiative by Mr Brown, from 1 January 1991 we will be in the position in Australia, for the first time, where there is uniformity of law.

I note that, as part of this amendment, the Government is proposing that the driver apprehended between .05 and .08 will be dealt with by an on-the-spot fine for a first offence rather than fronting a magistrate. There are obviously cost-saving advantages in that. It is a sensible move, but I think it is a situation that ought to be monitored.

In some other States it is still considered appropriate to bring a person before a magistrate when they exceed the limit of .05, for the obvious reason that there can be a perception in the community that an on-the-spot fine is merely a licence for a slight transgression or it is a bit like a parking ticket; whereas, actually having to front a magistrate - with the indignity of appearing in a magistrates court and lining up with everybody else, and getting in front of the magistrate and getting a pretty stern lecture - does drive home the point that this is conduct which society deems unacceptable. It may be that this device of the on-the-spot fine may, in the future, be seen to be inappropriate. In the future if we seem to have continual problems with persons apprehended between .05 and .08, it may be seen to be appropriate to do away with that measure, so as to require people even above .05 to be brought before a magistrate and to have the seriousness of their conduct impressed upon them. That being said, the Opposition supports this legislation.

MRS NOLAN (10.52): I am delighted to hear that the Opposition is supporting this legislation. I would like to remind Mr Connolly that it is my understanding that it was proposed at a meeting of ATAC, the Australian Transport Advisory Council, and it was proposed by the Prime Minister in December 1989, and not Mr Brown, the Land Transport Minister, as he alluded to earlier.

Those 10 safety measures included, amongst other things, national licensing of heavy truck and bus drivers, national uniform speed limits, a graduated driver's licence system, speed limiters for heavy vehicles and compulsory child restraints. The Alliance Government has put into effect a number of these measures, with more to be implemented during 1991 and 1992. However, I must also say, as did Mr Connolly, that I personally believe that this Bill is by far the most important. The Bill, which introduces a .05 blood alcohol limit for drivers from 1 January 1991, further provides that young inexperienced drivers and drivers of heavy vehicles, dangerous goods vehicles and public vehicles be subjected to a blood alcohol limit of .02.

I believe that the introduction of .05 should have occurred long before this and, in fact, I believe that we should have always had a similar standard to New South Wales. They have had .05 since the introduction of random breath testing. It is my personal view that we should have gone down a similar path some time ago. There is no doubt that alcohol is a major contributing factor to road traffic accidents and to the road toll. Anything that we can do to reduce the road toll is of great benefit. Indeed, I think it was in last Saturday's Canberra Times that it was reported that there is a widespread drink-driving problem in the ACT. As well, there has been a sharp increase in the road toll in the last two months. That is something that I am certainly concerned about, and I am sure all of us are.

It has been reported that 39 per cent of the deaths have involved alcohol. I think 39 per cent is much too high. It is clearly in the community's interest to deter, as far as possible, any person who has consumed an amount of alcohol from driving their vehicle. Members have previously been reminded in this Assembly that in 1988 the Federal Office of Road Safety estimated the average cost of a road fatality to the Australian community to be some $580,000. On average, Australia-wide around 1,000 fatalities involving alcohol occur every year. The direct economic cost to Australia every year is well over half a billion dollars - an enormous amount of money. This is without the pain, grief and suffering associated with road trauma. It is not saying too much to say that some of those who will avoid the trauma of road accidents by these alcohol restricting measures are being saved a lifetime of pain and suffering.

The ACT community recognises the senselessness, the selfishness and the irresponsibility of people who elect to pilot a 100 kilometres per hour battering ram on public roads whilst not in full control of their faculties. The Bill is merely giving legislative expression to that recognition. The new blood alcohol limits are a significant deterrent to drivers and should serve to contribute to the reduction of the road toll. I use the word "should", but I personally believe that it will assist

in the reduction of the road toll. As in all things, some groups are more at risk than others. In regard to drink-driving, a person more at risk of being involved in an accident is one who is still mastering one of the most complex skills we regularly practise in our society, namely, driving.

Research has established beyond reasonable doubt that novice drivers are more likely to be involved in a road accident and disproportionately more likely to be involved if they also have been drinking. The Government's unambiguous message to young novice drivers is that they should not drink at all if they are going to drive. The .02 enforcement level is intended solely to permit the residual effects of alcohol based medicines. The Government's intention with .02 is that these drivers will not drink at all and drive. This measure, therefore, operates as a deterrent and, at the same time, has an educative function so that young people will be instructed from the outset by society at large that drinking and driving just do not mix. They will be trained from the start that, even when they come to be seen as experienced drivers, they must lower their alcohol intake if they are intending to drive. I believe that this message will assist them in later life.

There is also another very important group in our society of whom we expect professional and responsible behaviour. These are the drivers who carry passengers for hire and reward, or who drive the largest vehicles on the roads. Accordingly, it is also important that drivers of heavy vehicles and public vehicles be required to maintain a high sense of responsibility towards the safety of other users and to the passengers that they are carrying. The .02 limit that applies to drivers of heavy vehicles and public vehicles while they are driving reinforces their responsibility. Again, .02 merely allows for residual medicinal alcohol. This applies to taxi drivers, hire car drivers, bus drivers, coach drivers, drivers of heavy vehicles and drivers of dangerous goods. This Bill is in no way discriminatory in regard to this group of people. They are very special service providers. I know that the very great majority of them would not contemplate drinking and driving.

The new blood alcohol limits are in line with those in neighbouring States. However, I understand that the Northern Territory will not be reducing their blood alcohol level from .08 to .05. I also understand that, while Western Australia will actually be introducing it, it seems unlikely that they will end up with the level reduced from .08 to .05. However, at least the remaining States in Australia will go down the path and will all have a similar situation where .05 will be the norm.

In conclusion, this Bill will discourage drink-driving, increase road safety and increase the public's awareness of the dangers of drinking and driving. This Bill is a significant measure to reduce the road toll and, consequently, to reduce costs to the community in terms of medical expenses and hospital resources and the associated grief and trauma. I commend the Bill to the Assembly.

MR STEFANIAK (10.59): I have only a few points. I will be brief. The reason for the State Ministers and, indeed, the Federal Government wanting a uniform .05 is obvious. As someone who has done a number of breathalyser courses, I am delighted to see this Bill introduced. At .05 a person is twice as likely to have an accident because of the effect of alcohol as if they had a .00 reading. At .08 you are three times as likely. After that, it basically goes through the roof, so that, I think, when you are at about 1.5 you are 25 times as likely to have an accident because drinking really does impair your ability to drive properly. So, it is most fitting that our limit now comes down to .05.

It is also very relevant because we were in a rather strange situation of being an island in New South Wales. The police would stop a lot of people with random breath testing around Harman. They might blow about .07, and they would be going into New South Wales. They could drive in the ACT; but, certainly, when they got over the border they had problems. It does give uniformity, not only between the ACT and New South Wales but, I am pleased to see, Australia-wide.

Mr Connolly raised a fear in relation to the on-the-spot fine. I would point out to him that clause 12 of this Bill does seem to take that into consideration to a certain extent. It deals with cancellation and disqualification of previous offenders. I think the on-the-spot fines are a very good step and an innovative step in law reform, in that if you blow between .05 and .08 you will get a $500 on-the-spot fine and, indeed, will keep your licence. Normally, if a person is a little bit over .08 and either has not been driving all that long or, maybe, has been driving for a while with a few minor convictions, one can expect a fine and a three months suspension in our courts. If you have a slightly worse record you will get a little longer suspension period. Of course, if you are a previous offender within five years, your licence will be cancelled until the court otherwise orders, and the fine, of course, will be heavier.

This on-the-spot fine for the level between .05 and .08 is innovative. I think it will be very effective. Indeed, I think it will have another spin-off effect. In fact, people who often come before the courts with reasonably low readings over .08 and who tend to get fines of less than $500 might now find themselves - because the courts have been given a bit of direction too from this particular piece of legislation - facing increased fines. This will

bring us more into line, again, with the other States because our fines for drink-driving do tend to be considerably lower than those of surrounding New South Wales and those of other States. I think we might see a nice little positive spin-off there. All of this, of course, contributes to road safety.

The other aspects in the Bill which Mr Collaery and my colleague Mrs Nolan and, indeed, Mr Connolly have mentioned also contribute generally to the cause of road safety. Mrs Nolan alluded to a number of people who will now be caught by this provision but who otherwise would not have been. In the report she referred to in the paper, there were some figures given. The figure of 34 springs to mind as the number of people charged by the police, but the number of people who, in fact, blew between .05 and .08 on that weekend and who had to be let go under our current legislation was about 150 - a very large number. Those people will, of course, now be caught and they will receive an infringement notice. They will have to pay a $500 fine. Our roads can only be safer because of this legislation. I commend the Attorney-General and the Government for bringing it in, as I commend the State governments and the Commonwealth Government who have been involved in this 10-point initiative.

MR COLLAERY (Attorney-General) (11.03), in reply: I thank members for their remarks. There are one or two technical points that my advisers have given me to respond to. I will come to those. The general comments are, of course, that we, as an Assembly, are sending a strong message to the community that it cannot drink and drive, and if you are on the .02, limit in my view, you simply cannot even contemplate drinking and driving. That is a particularly strong message to young people.

I think it was Mr Connolly who said that, perhaps, all novice drivers should be subject to .02 and not only those under 25. It has been pointed out to me that, when provisional licences are introduced as part of the graduated licence scheme that my colleague, Mr Duby, has already mentioned, all provisional licence holders will be automatically subject to .02. That should extrapolate, I guess, logically, though not syllogistically, to all novice drivers being on .02. We are also bringing our blood alcohol limits into line with those in other States, particularly New South Wales. That is particularly significant and sensible, given our close proximity. I remember, when I was in practice, actually having a client who had been breath tested in Canberra Avenue and had been clear but had later been picked up somewhere in Queanbeyan as he was dropping someone off from late duty - interestingly, from Parliament House.

I would really like to put this in a sealed envelope and hand it to you, Mr Clerk, so that no-one will say later that they did not know. There are going to be, for about a year, some potentially interesting situations where it is

impossible to line up with New South Wales until our demerit scheme is in place. Until my colleague, Mr Duby, has his computer system in place, there will be a number of somewhat esoteric potentialities that have all been mapped out to me.

The last thing I am going to do is to tell the community what those potential situations are, except to say that, from long and difficult discussions that we have had with our advisers, they are not easily soluble. It would be best, in fact, if we stick to what we are doing, and for Mr Duby and his officials to get their computer and software up for the demerit scheme, so that we are then fully in line with the uniformity of the proposal reached in Perth under the Prime Minister's initiative.

Certainly, it is our policy proposal that persons in the .05 to .08 category be treated as an isolated class. You have to keep that in mind, because if you treat it as anything else there are interesting scenarios that will attract some of the eager beavers in the local legal profession. Since our good friend Mr Higgins - now Mr Justice Higgins - is no longer practising at the bar, I feel somewhat protected in that regard for at least 12 months, although I mean no disrespect to other colleagues in practice.

The comments made by my colleague, Mrs Nolan, were particularly welcome because they bring home the social nature of our legislation. The Bill further provides that first offenders in the .05 category who record between .05 and .08 be subject to an on-the-spot fine. Repeat offenders in the same circumstances will be subject to a court imposed fine and automatic licence suspension up to six months or licence cancellation.

I emphasise to members that this is a transitional measure for the next 12 months, pending the introduction of the points demerit scheme. Such offenders will then be subject to a fine and six demerit points as an added deterrent. The accumulation of 12 demerit points within three years will result in automatic licence cancellation.

As a consequence of this Bill we firmly hope that the public will have an increased awareness of the hazards of drinking and driving, and that this will be instilled in young novice drivers, particularly from the commencement of their driving experience. Any measures which add to our aim to increase public safety and reduce the road toll will, we trust, be supported wholeheartedly by the community. We trust that some of the potentially interesting and cute scenarios that may arise in the next 12 months - depending on where an offence is committed in Australia, and whether there is a certain conjunction and sequence of offences in this Territory - do not impact largely on the effectiveness of this legislation.

Since my colleague, Mr Duby, went to Perth a considerable amount of work has been put into the preparation of this new regime. It does require the police to have a new traffic infringement notice scheme. They have moved very quickly on that. They have been very helpful since the Government made its decision. I take this opportunity to thank our community-based Australian Federal Police officers. I thank the officers of Mr Duby's department who have had, in any sense, the main carriage of the oversight of this Act, though it lies within the Attorney's realm of responsibility. I also thank my colleague, Mr Duby, for wholeheartedly supporting these measures and pressing the issues through Government processes so that we could get the Bill up today.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 7, by leave, taken together, and agreed to.

Clause 8

Amendment (by **Mr Collaery**) agreed to:

> Page 3, proposed definition of "traffic infringer", paragraph (a), line 24, omit "26A(e)", substitute "26A(f)".

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill, as amended, agreed to.

MAGISTRATES COURT (AMENDMENT) BILL 1990

Debate resumed from 11 December 1990, on motion by **Mr Collaery**:

> That this Bill be agreed to in principle.

MR CONNOLLY (11.11): This is another Bill in relation to which the Opposition fully and wholeheartedly supports the Government. I expect that the debate this evening will be fairly short. However, the brevity of the debate should not mask the significance of the amendments. The domestic violence legislation now in place in this Territory was a significant area of law reform in which the Australian Capital Territory led the way in Australia. Law reformers and legislatures in other States in Australia are paying

close attention. It would appear that it has significantly benefited this community by significantly altering the power relationships that lead to domestic violence.

It is legislation which has been only effective because it has been well supported by the Australian Federal Police. In law reform, it is one thing to put a statute on the books; it is another thing to have it implemented. Certainly the reports that we get, and I am sure that the Attorney gets, are that the Federal Police are enthusiastically assisting in implementing the domestic violence legislation by assisting individuals to obtain orders and implementing the orders with a degree of sensitivity and discretion. That is very heartening.

The problem with the domestic violence order legislation was, I suppose, its limited scope. It applied, effectively, to a spouse relationship, and there were many situations where protection was needed but was not covered by the DVO. This amendment to the Magistrates Court Act provides a streamlined method for the so-called keep-the-peace order - the restraining order. As the Attorney-General said, it is applicable in neighbour disputes or disputes between boyfriend and girlfriend. Generally speaking, it is applicable to those areas that are not covered by the domestic violence legislation. It follows, essentially, a similar model. It has the importance of the DVO and has the importance of the restraining order. It is relatively quick and inexpensive to obtain. There is provision for interim orders to be issued ex parte, so that the order, where needed, can be quickly obtained, and it can be made permanent, or otherwise, by a court hearing, somewhat after the event.

We enthusiastically welcome this legislation. The Leader of the Opposition, in the adjournment debate last night, did raise some concerns about aspects of the way the DVO legislation is now operating insofar as it is being applied by magistrates. There are longstanding and well recognised resourcing problems in the DVO legislation which will probably, no doubt, continue to apply with the keep-the-peace order.

It would seem that there is a continuing need for better counselling and support systems, principally to the victim - the complainant for the DVO or the keep-the-peace order - but also for the person whom the order is directed against. This would assist them to accept that violence is not an acceptable solution to a domestic or neighbourhood problem and to accept that the courts may legitimately step into what some people, unfortunately, see as a private affair and no business of courts and police.

This legislation, together with the domestic violence legislation, makes the point that, in a civilised society, violence is simply an unacceptable method of resolving disputes between individuals. It is a situation that is obviously apparent to us; but, sadly, in some areas of the

community it continues to seem to be accepted. The report on violence in Australia that was tabled in this Assembly earlier this year was most frightening, to the degree that it showed that violence is still seen by some as an acceptable way to solve a dispute, particularly between a man and a woman.

It is most appropriate that the parliaments step in and provide this form of protection. As I said before, the ACT is leading the way. We support enthusiastically what the Attorney is doing in this Magistrates Court (Amendment) Bill.

MR STEFANIAK (11.16): I am heartened by the remarks of Mr Connolly and indeed of the Attorney-General when he introduced this Bill. This is another excellent piece of legislation that has been introduced into this Assembly in recent times. I am delighted to be able to speak on it, just as I was in relation to the Motor Traffic (Alcohol and Drugs) (Amendment) Bill.

The Magistrates Court (Amendment) Bill 1990 reforms the law relating to violence in non-domestic relationships. It is a major violence control initiative. It will replace the existing inadequate and largely toothless keep-the-peace provisions in the Magistrates Court Act. Of course, we have heard questions in relation to the old legislation in recent days. Examples have been given of the need for a person to go back to court for anything actually to happen when there was a breach. This more modern piece of legislation will replace those largely toothless provisions in the old Act. It is a sad fact of life, which I have certainly seen in my experience both as a prosecutor and a defence counsel, that there is a need for a Bill such as this.

There are many non-domestic relationships and situations, especially fights between neighbours, that get totally out of hand. Indeed they sometimes go all the way and lead to tragic incidents of serious injury and, indeed, on rare occasions, death. Perhaps more often they lead to certain violent flare-ups which can be contained, and I think legislation like this must help.

Indeed, I have a couple of constituents who have had problems in this regard and who will be greatly assisted by Bills such as this. Because of quite unpleasant neighbourhood disputes they are going through they will be aptly assisted by Bills such as this. Indeed, they have expressed to me their delight that this legislation is in fact going through the Assembly in these sittings and will be law within the next few days.

This legislation provides protection to victims of violence, threats, harassment and intimidation and it is modelled on the provisions of the Domestic Violence Act. While simply changing the law is not the final answer to violence in our community, I envisage that this legislation

will be an important shield for the victims in our society. Under the legislation the person who has suffered or been threatened with personal injury or property damage, or has been the victim of harassing or offensive behaviour, may apply to the court for a restraining order.

The court will be able to make an order prohibiting the offending behaviour and may also order that the person not approach, contact, harass, threaten or intimidate the victim or damage the victim's property. It is hoped such orders will alleviate the fears of the victims of violence or threatening or offensive behaviour, particularly women. A breach of a restraining order will be a criminal offence, meaning that the police will be able to arrest the offender immediately. That is a significant improvement on previous legislation in this area.

The Bill provides a penalty of a $1,000 fine or imprisonment for six months or both for breaching an order - a similar penalty to that under section 546A of the Crimes Act which deals with offensive behaviour. Like the domestic violence orders, keep-the-peace orders fall into the category of preventative justice. Of course, an ounce of prevention is a lot better than cure. While there has been some criticism of restraining orders, certainly in recent days, evidence does suggest that they are an effective deterrent to violent behaviour in a majority of cases. Sadly, legislative measures alone cannot offer a total safeguard against violence in our community. However, such orders can and do prevent violent acts in the community, with consequent savings to the criminal justice system as a whole and to welfare and other services.

One of the most important aspects of this Bill is its provision for the cancellation of gun licences and seizure of guns. It is hoped that such provisions will assist in the prevention of tragic homicides in our community. These provisions are in line with the recommendations of the National Committee on Violence and reflect this Government's dedication to the reduction of violence in our community. This commitment is demonstrated by our Government's pledge to give additional resources to the ACT Legal Aid Office to help fund keep-the-peace matters. Of course, that office has a very important responsibility in these areas. It is a port of first call for people wishing to take out domestic violence orders and, indeed, such orders as would come under this amendment of the Magistrates Court Act.

The provision in relation to seizure of guns is very timely and essential. Indeed, that is at the top end of the scale of potential violence. It is absolutely essential, to nip potential trouble in the bud and to prevent much more serious crimes from occurring, to have that power to seize firearms. I think that is a very important and welcome addition. This Bill will assist in affording protection to the victims of violence and intimidation in our community. I certainly wholeheartedly commend it to the Assembly.

MR COLLAERY (Attorney-General) (11.21), in reply: I thank members for their comments, and I welcome the easy passage of this Bill. The Bill updates the existing inadequate keep-the-peace provisions in the following ways. First, the range of persons who may apply is limited. Secondly, the procedure is not available in respect of intimidation and harassment. Thirdly, delays are inherent in the procedure. Fourthly, interim protection is not available. Fifthly, the only sanction for breaching an order is the forfeiture of the amount of the recognisance.

The Bill complements the Domestic Violence Act by offering similar protection to people in non-domestic relationships such as neighbours or girlfriend-boyfriend situations. Under these amendments an application for a keep-the-peace order may be made by an aggrieved person, an aggrieved person's relative or a police officer. Where an aggrieved person is a child, an application may be brought by a parent or guardian or a person who normally lives with a child, or the child may bring the application in his or her own right and would receive legal assistance.

Where the court is satisfied, on the balance of probabilities, that a person has caused or has threatened to cause personal injury or damage to property, or has behaved in a provocative or offensive manner, the court may make an order restraining that person from such conduct and may impose certain conditions and prohibition. Most important, of course, as the lawyers in the chamber understand, is that the test has been made "on the balance of probabilities". I am sure members will appreciate that. Equally there is a very strong weight left on the shoulders of our judges and magistrates to deal with this provision. It will also be possible for the court to recommend counselling and conflict resolution services where appropriate.

The Bill allows the court to give interim protection where it considers that this is necessary to ensure the aggrieved person's safety. Further, a breach of an order will be a criminal offence punishable by a $1,000 fine, imprisonment for six months, or both. The Bill provides that, upon a restraining order being made, any gun licence held by the respondent will be automatically cancelled unless the court is satisfied that it should not be. In that respect, I saw a news item last night which entirely misread this provision.

The Bill also provides that the court will have a discretion to order the seizure of any gun in the respondent's possession for the period for which the restraining order is in force. The Bill also amends section 14A(3) of the Domestic Violence Act to limit the period for which a gun can be seized at the time during which an order is in force. This is to provide consistency between the gun provisions in domestic violence and keep-the-peace legislation.

These amendments are in line with the recommendations of the National Committee on Violence that people who have shown a propensity to violence or threatening acts should be prevented from carrying weapons so that tragic homicides using those weapons may be prevented. I am very pleased to note that this Bill has been endorsed by the Domestic Violence Crisis Service, the Law Society of the ACT, the Australian Federal Police, the Magistrates Court and the ACT Legal Aid Office. The only change which has been made since that endorsement is the inclusion of gun licence cancellation and gun seizure provisions. I am quite certain that those bodies would not require us to go into a full range of consultation again, in view of the fact that we have moved positively to deal with those weapons.

The Alliance Government has pledged additional funding to the ACT Legal Aid Office to cover the additional cost it will incur as a result of the Bill - off the top of my head, funds for another duty solicitor, and other ancillaries. It should be pointed out - and I wish to express some disappointment at this stage - that this Bill was the responsibility of the Commonwealth until July this year when the Magistrates Court Act became an Act of the ACT. The Commonwealth did not then pursue these amendments, however, because it could not resolve the funding issues involved in the legislation.

The Alliance Government is more concerned with the prevention of violence in the ACT community than our Commonwealth counterparts. That is demonstrated by a willingness to fund this important legislation. Nevertheless, I believe that it was mean-minded of the Commonwealth to send this largely drafted Bill over to us, together with the Magistrates Court, without the funding for it, particularly when it had been so long promised and did not arrive. That has created extra funding stresses within my ministry, which I am attempting to deal with within the possibilities of the laws relating to appropriation. It is a very difficult matter. I am pleased to say that the Treasurer has moved to assist me with that extra duty solicitor for the Legal Aid Office, but we will be forced to tighten our belts in relation to the Magistrates Court situation. It is a difficult situation. It can be cured, of course, at a later date. I am certain that the magistrates will react favourably to it.

Finally, and somewhat by way of a careful reply to comments made by the Leader of the Opposition yesterday in relation to a recent tragedy, I have announced today the giving of another term of reference to the Australian Capital Territory's Community Law Reform Committee. In that respect, it is a reference to examine the role of the victim of crime in the Territory's criminal justice system, to report on whether the current system adequately deals with the needs of victims, to report on whether the Territory should adopt the use of victim impact statements

such as in South Australia, and to report on the need for any further measures or legislation to improve the delivery of justice to the victims of crime.

I particularly asked the committee to look at the California-type court order options for judges and magistrates; actually not only to order counselling but also to order therapy, at government expense, for both victims and offenders. In that announcement I indicated that I intend to take a close interest in the underlying causes of violence. Hopefully, in that regard, aggression therapy programs will be stimulated and expanded.

Of course, that function is already being conducted - discreetly, of course - by my Corrective Services in a venue in Canberra. Clearly, there is a need to deal with those very difficult situations where a magistrate, to the best of his or her ability, is attempting to balance civil liberties and protection issues in dealing with persons accused but not yet judged guilty of violence, or threats of violence. It may well be that submission to, or compulsion to undergo, therapy counselling relating to aggression problems may be an aspect to meet the underlying concerns that were alluded to by the Leader of the Opposition in the adjournment debate last night.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

CRIMES (AMENDMENT) BILL (NO. 3) 1990

Debate resumed from 29 November 1990, on motion by **Mr Collaery**:

That this Bill be agreed to in principle.

MR CONNOLLY (11.29): This is a Bill in relation to which the Opposition, while generally supporting the thrust of the proposal, does have some concerns with the detail. I will be moving an amendment circulated in my name when we get to the detail stage. The problem of computer crime was alluded to by the Attorney in his remarks when presenting this Bill. The Bill, as he says, seeks to address the problem of unlawful access to computers; the so-called "hacker" who gets into a computer system and damages data, removes data, or introduces some form of computer virus which severely damages both the data and the computer.

People may well have gained the impression from that presentation speech that this Bill was the sole legislative provision standing between the good, lawful computer users of the ACT and mayhem at the hands of hackers. In fact, most hacking is done by way of a person gaining access to a computer situated at a remote location. It is done via a modem and telephone lines. As the Commonwealth has legislative jurisdiction in this area, they used that constitutional head of power in amendments to the Crimes Act in 1989 to create a series of offences that are based on the use of a Commonwealth facility; that is, a telephone line to access a computer, damage a computer, damage data, or copy or extract data. By and large, one would expect that the hacker would be dealt with under Commonwealth law. The gap that is left by Commonwealth law concerns the person who physically accesses data in a computer at that present location. The legislation that is before the Assembly - and I am sure the Attorney would acknowledge this - is based on legislation in New South Wales, which itself very closely models the scheme that has been introduced in the Commonwealth.

It is that general scheme that the Opposition looks at to raise its detailed comments. In this in-principle stage, I will outline to the Assembly what the Opposition's concerns are. Essentially, the scheme in the Commonwealth Crimes Act and the New South Wales legislation is to distinguish between levels of offence. The first level of offence is to make it an offence for a person to unlawfully access data in a computer; that is, it creates the offence of, as it were, breaking down the electronic door and getting into the data bank. Interestingly, the offence is at the same level under both the New South Wales legislation and the Commonwealth legislation, namely, that breaking down the barrier and getting into the computer is an offence punishable by six months imprisonment.

Both the Commonwealth and New South Wales legislative models then go on to create the next level of offence. Having broken down the door and got in, it creates an offence of dealing with the data, damaging the data, extracting the data or introducing the virus. That offence, which clearly is more serious because damage is actually done, is dealt with more seriously again in both the Commonwealth Crimes Act and the New South Wales Crimes Act. For the record, I am dealing with sections 76A, 76B and 76C of the Commonwealth Crimes Act and sections 309 and 310 of the New South Wales Crimes Act.

I have not had the opportunity to research the position in other States in Australia. I suspect that the position is the same where State parliaments are addressing the gap left by the Commonwealth legislation - that is, physically accessing a computer as opposed to accessing a computer via the telephone lines. The legislatures are creating a distinction between merely getting in, and getting in and doing some damage.

The legislation presently before the Assembly does not do that. Section 153 of the legislation presently before the Assembly merely creates an overall offence of intentionally obtaining access to data. I would have thought that section 154 of our proposed legislation, which deals with damaging computer data, with some amendments to reflect ACT drafting style, is almost a precise copy of section 310 of the New South Wales Act and section 76E of the Commonwealth Act. It is a 10-year penalty offence - the destruction or erasure of data, or the interference with or interruption of the lawful use of a computer, which I understand covers the virus.

We are in the same position as the Commonwealth and New South Wales in relation to that serious level of damage. However, in relation to the lower level offences, all other legislatures have seen fit to create a two-level offence. My proposed section 153(1) covers the mere intrusion; the breaking down of the electronic door. My proposed sections 153(2), 153(3) and 153(4) deal with going beyond that step to use that data or, specifically, address the accessing of particular types of data that are of particular sensitivity - government information, confidential information, information relating to criminal law and so on. Then we go on to the higher level of offence of intentional damage.

I think it is incumbent on the Government, if they are not prepared to accept these amendments, to give a clear explanation as to why they feel that the ACT ought to have a position different to other States. I understand that there is a view that was expressed at a law reform forum that it would be better to leave discretion in the judges here. What the Bill before the house is doing is creating the one offence at the highest level of imprisonment, that is, imprisonment for two years.

As a point of principle the Opposition is wary of that. That is in no way intended to be any reflection on the judiciary; but it is far better, in our view, for the parliaments to lay down levels of seriousness and distinguish between a more serious level of offence and a less serious level of offence rather than to create a single cover-all offence and leave it to judicial discretion. Based on the argument reductio ad absurdum, the Crimes Act could simply say, "One shall not be naughty. Penalty: life imprisonment", and leave it to the judges to distinguish between levels of offence and levels of penalty. It is far better to be specific.

There is also the obvious argument here, that was referred to by the Attorney in the previous debate, of uniformity. Certainly, when one is in an island in New South Wales one should at least have a good reason for departing from the law applying in the surrounding jurisdiction. I think that is doubly so when we look at the Commonwealth legislation which basically adopts the same structure of a six-month penalty offence for the mere obtaining of access, and a two-year penalty offence for going beyond mere access and

dealing with material. We then go back to uniformity with our 10-year penalty offence for actively damaging or introducing the virus. I will be moving that specific amendment.

The other point that I would like to raise by way of query to the Attorney - I think there may well be good reason for this, and I am not proposing an amendment - is why we have introduced the additional concept of recklessness in the ACT legislation when that is not present in either the Commonwealth legislation or the New South Wales legislation. I might just say that again because Dr Kinloch was speaking to the Attorney. I am raising a question as to why in the ACT legislation we have introduced the concept of recklessness in the provision relating to damage to the computer.

I note that the New South Wales provision merely covers intentional destruction or interference, as does the Commonwealth. Again, we have, in the two comparable jurisdictions, an offence limited to intentional damage to the computer or the data. Here we have introduced the concept of recklessness. I am wondering whether that has been done under advisement because of problems that have been identified with the existing provisions in New South Wales or the Commonwealth and, perhaps, what degree of mental element would be intended to apply to this reckless use of the computer.

The courts, as the Attorney would be aware, have laboured over recent years to come up with an adequate definition of recklessness. We are getting to the point where one can be reckless if one should reasonably have foreseen that harmful consequences would follow. As a person who is not computer literate, I am well aware that if I am given access to a computer there is a rather high likelihood that I am going to muck something up and drop something out. I am just wondering whether we are heading into dangerous grounds by introducing the concept of recklessness. I will hear what the Attorney has to say in response to that because it may well be that the law officers in other States, or here, have identified a real failure in the New South Wales and Commonwealth provisions. It does seem that in this area the introduction of recklessness, or an element of recklessness, may not necessarily be justified. I will await the Attorney's views on that.

DR KINLOCH (11.42): I appreciated Mr Connolly's exposition. I am not wanting to sound computer literate either; but I would be terrified at someone getting into one's computer, not with any determination to commit a crime but merely to muck it up without knowing what they were doing. Whether that is reckless or not, or ignorance, I am not sure. The dilemma you raise is a considerable one. I am not a lawyer and I cannot possibly comment on the technical and fascinating areas that Mr Connolly has talked about. I would rather go back now to look at the Bill in general and make some general points about it, not at the level of detailed law.

The Crimes (Amendment) Bill (No. 3) 1990 creates new specific criminal offences related to unauthorised access to computers. Unauthorised access, whether by an employee exceeding his or her authority or by an outsider using a personal computer and the telephone network, is a matter of concern to the community. I personally would be very worried, too, about almost accidental involvement with a computer, but that is another matter. It is a concern that is not limited to business and governments which use computers. Very few of us would not have some private and personal information about ourselves stored on some computer somewhere. We are all concerned about the security and integrity of that information. Naturally, we want only authorised people to have access to it. We all remember the tremendous fuss about the so-called Australia Card, and now we have the tax file numbers.

As my colleague, the Attorney-General, pointed out when he presented this Bill, information in computers is peculiarly vulnerable to unauthorised intrusion. Of course, this is a problem in any office where a number of people are using a computer. Simple physical barriers such as a locked door do not secure computer records in the same way that they would protect paper records. The widespread use of sophisticated personal computers and advanced communications technology have given perpetrators of anti-social acts a degree of hitherto unimagined or unattainable power. This technological power allows a person invisibly, remotely and rapidly to commit anti-social acts with a confidence that he or she will not be caught easily.

Of course, computer owners can do a lot to enhance the security of their systems, and most do - by passwords, et cetera. The major banks, in particular, devote some resources to maintaining the security and integrity of their computer systems; but, as we know, they get caught out. Not even the most sophisticated electronic security devices can keep the determined hacker at bay for long. I recognise that distinction that Mr Connolly makes between the hacker operating outside and someone intervening in the computer inside.

In any case, complicated security measures may actually inconvenience authorised users and defeat one of the primary benefits of computers, namely, easy access to information. Certainly, speaking for computer users at the level of the Macintosh, I would be very distressed if Macintosh had to create all sorts of complicated ways to prevent people getting into the computer and using it effectively. This is where the criminal law must support the private efforts of computer owners. As the Attorney-General has said before, there is no justification for interfering with a computer belonging to someone else.

Like any other property owner, an owner of a computer has a right to use it without interference from unauthorised sources. Also, might one add, it is not only a question of personal ownership; it is a question of either a self-standing or network computer in an office where people are connected to other people working in that facility.

The activities of hackers are not just a game of wits with owners or users. Unauthorised access can have potentially disastrous consequences. At the very least, it causes unnecessary expense in necessitating that the computer system be checked for possible damage. Hackers might also introduce so-called viruses into computer systems. May I thank whoever it is who recently introduced the SAM system into our computers in this building.

Unauthorised access to computers is an anti-social activity which must be curtailed by applying criminal sanctions. Existing property offences are not readily compatible with advanced computer-age technology. These laws, presumably, were written when we could not have imagined what modern computers involved. Therefore, this Government has acted quickly to clarify the uncertainties of the present law by creating two new offences specifically aimed at deterring unauthorised access to computers.

One prohibits unauthorised access to computers and is in principle similar to other trespass offences. The other criminalises malicious damage to data stored in a computer and unwarranted interference with the use of a computer. I again raise the question about someone who does it, if you like, in all innocence. Applying criminal sanctions at the access stage should do much to deter subsequent criminal conduct involving computers.

These offences will complement the existing offence in section 115A of the New South Wales Crimes Act as it applies in the Territory, which prohibits the dishonest use of a computer. Mr Connolly has referred to that. These amendments to the criminal law are necessary to ensure that the law keeps pace with technological advances and reflects the needs of the community at large. Hackers, despite what some might regard as the romantic image of the anti-authority outlaw that is sometimes given to them, pose a very great threat to the use of computers and the benefits which they bring. This Bill will do much to redress the situation. I commend it to the Assembly.

MR COLLAERY (Attorney-General) (11.48), in reply: I will anticipate some of the detailed debate just to see whether we can settle some of the issues, and then see whether Mr Connolly presses the amendment. The first thing I want to say about this piece of legislation is that it does pick up, as I mentioned in my introductory speech, a decision of the Government to complement the Commonwealth legislation. That might answer Mr Connolly's first point. Certainly, our offences cover the same ground as New South Wales and the Commonwealth, but only in a slightly varied form.

Mr Connolly mentioned the fact that we have moved to include recklessness as one of the elements in an offence. So as to be not too technical, the test we have adopted is to require the requisite intent. As the lawyers in this house know, there may well be a difference between the subjective and objective test; but when you get to recklessness, as the great debate goes, you get to the thin line between difficulties of proof. I can certainly put to members a scenario of someone who has the requisite intent to get into a system that may be remarkably sensitive in itself - a social security or taxation data bank containing privacy details or, more importantly, pension records that have to be right every fortnight, or else people starve. I believe that the community may well admit that we need to have a recklessness test for that person who, though having a requisite intent to trespass - because all offences start with that initial trespass - moves on to cause immense damage and hardship by the mere fact of blundering through a system, as my colleague, Dr Kinloch, mentioned. This is particularly so with systems that pay moneys.

It is more than their incompetence or ineptitude, or even negligence. It is our view that computer bases should be protected from recklessness as well as intentional damage. I am encouraged in that view because it is the practice of our Government - and I trust that it will be the practice of all governments who may follow us in the long term - to refer all these criminal amendment proposals to the Criminal Law Consultative Committee, which is a very august committee that includes judges and the rest.

These provisions have gone over that hurdle. The fact is that Mr Connolly may be amused to know that when we sent the Bill to the Criminal Law Consultative Committee it had in it his provision from the New South Wales Act. In fact, our Bill, when I first saw it, looked like Mr Connolly's amendment. It is on the advice of that committee - which is chaired by Justice Elizabeth Evatt and contains Mr Justice Higgins of the Supreme Court of the ACT and other eminent lawyers including the chair of our ACT Law Reform Committee, the former judge, the Honourable John Kelly, the Chief Magistrate, and senior and eminent legal advisers to governments - that we have not proceeded to adopt the style of the New South Wales Act. That will require some explanation. *(Quorum formed)*

In fact, as I said, our Bill before it went to the Criminal Law Consultative Committee originally made the distinction, as does Mr Connolly's amendment from the New South Wales Act, between simple unauthorised access and access to sensitive data; that is, the law chased you differently if you had had just simple unauthorised access or had access to sensitive data. The reasoning behind the advice given, as I understand it, from the Criminal Law Consultative Committee was that a straightforward computer trespass offence was preferred. The view was that there would be

difficulty in proving the offence in the sensitive data category. We would have to prove the knowledge and criminal intent to get at sensitive data, as compared with data.

If these are hackers and fishers, they presumably do not know what they are seeking. It requires a very high standard of proof. It was the view of the committee, and I must say that I have accepted it. I am not prepared to say that I will go to the wall on all of this. It is simply that I believe that the Government should, if it is not prepared to accept the recommendations of that august body, have very good reasons for it. My Law Office and my advisers and I could not divine any.

The categories of sensitive data in the Commonwealth and New South Wales legislation, and as proposed in Mr Connolly's amendment, are so extensive that they cover just about all the types of information found on the computer. The view that was put to us was that there is no practical distinction between the offences proposed in Mr Connolly's section 153(1) and section 153(3). If one aim of those screening committees is to simplify as much as possible and reduce the bulk of our laws, that, presumably, if I can speculate a little, may have been one of their motivations. On perusal of it, it seems that, if one is in court on either side of the bar table, there does not seem really, given the breadth of subsection (3) of section 153 in the New South Wales legislation, to be much reason for attempting to give a comprehensive statement.

The committee was quite certain that an objective mental element was undesirable in a criminal offence. I realise that I am compromised to some extent by the inclusion of the recklessness test. That is not as objective as those dreadful words, that many law reformers want to see moved out, "know" or "ought reasonably to know". It is the words "ought reasonably to know" in subsection (3) that seem to have attracted the attention of the consultative committee. The words "ought reasonably to know" mean that the judge, or the court and the jury, or what-have-you, can substitute their tests and do away with the subjective tests of criminality. I think that is a view that most progressive lawyers now share.

It is our view that the nature of the data in the victim computer is more appropriately a matter for the court to take into account when sentencing an offender. We believe that it should be for the court to take evidence as to what the data was and deal with it that way. Hence, the simple computer trespass offence in the proposed section 153 of the Government Bill carries the higher penalty of two years gaol.

This offence will cover any computer trespass from the trivial to one which has disastrous consequences. As a matter of practical law, the Government Bill covers the same ground as the New South Wales and Commonwealth legislation. The proposed subsection 153(2) in Mr Connolly's amendment is, in fact, already in the Crimes Act, out of order, at section 115. I would like to tell Mr Connolly that I understand why he may not have picked it up because, I must say, I did not do so when I originally had it presented to me. That section already prohibits conduct of this type.

Specifically, section 115 prohibits a dishonest use of a computer with intent to make a gain or to cause another person a loss. It is our intention when we eventually reform our Crimes Act to bring section 115 up to its correct place next to this, so that people do not miss it. This is the state, regrettably, of the Crimes Act 1900, as it applies in the Territory at the moment. I just inform Mr Connolly that we have already covered that offence in section 115. There are other detailed remarks I could make. I will not detain the house. Simply, if no distinction is made between simple unauthorised access and access to sensitive data, then the offence in the proposed amended section 153(4) is irrelevant and unnecessary.

Let me make just a quick review of offences in other jurisdictions. New South Wales and the Commonwealth distinguish between simple unauthorised access and access to sensitive data; Victoria has only a simple trespass offence, and it has no specific malicious damage offence, as we have in section 115; South Australia has a computer trespass offence, but it applies only to computers which have restricted access, not to all computers in general. That reminds me that, if it is a Commonwealth computer that is accessed this way in the Territory, of course, the Commonwealth Crimes Act applies. To the best of my advice, the other code States have no specific computer trespass offences.

Finally, I think Mr Connolly mentioned his preference to have an explicit penalty there rather than to leave the discretion to the judges. He may correct me if I am wrong. The simple and tactful fact of the matter is that it was a judge, a sentencing judge, who expressed some strong views about that on the Criminal Law Consultative Committee. In the absence of any prevailing strong view against that, I have not acted specifically on that issue. Mr Connolly raises another issue of interest that we should look at generally in the context of our criminal laws.

Question resolved in the affirmative.

Bill agreed to in principle.

Friday, 14 December 1990

Detail Stage

Clauses 1 to 3, by leave, taken together, and agreed to.

Clause 4

MR CONNOLLY (12.01 am): I will persist and move the amendment circulated in my name. I move:

> Page 2, proposed new section 153, lines 18 to 21, omit the proposed new section, substitute the following proposed new section:

"Unlawful access to data in computer

153.(1) A person who, without authority or lawful excuse, intentionally obtains access to a program or data stored in a computer is liable, on conviction, to imprisonment for 6 months.

(2) A person who, with intent -

(a) to defraud any person; or

(b) to obtain for himself or herself or another person any financial advantage of any kind; or

(c) to cause loss or injury to any person;

obtains access to a program or data stored in a computer is liable to imprisonment for 2 years.

(3) A person who, without authority or lawful excuse, intentionally obtains access to a program or data stored in a computer, being a program or data that the person knows or ought reasonably to know relates to -

(a) confidential government information in relation to security, defence or inter-governmental relations; or

(b) the existence or identity of any confidential source of information in relation to the enforcement or administration of the law; or

(c) the enforcement or administration of the criminal law; or

(d) the maintenance or enforcement of any lawful method or procedure for protecting public safety; or

(e) the personal affairs of any person (whether living or deceased); or

(f) trade secrets; or

(g) records of a financial institution; or

(h) information (other than secrets) that has a commercial value to any person that could be destroyed or diminished if disclosed;

is liable to imprisonment for 2 years.

(4) A person who -

(a) without lawful authority or excuse, has intentionally obtained access to a program or data stored in a computer; and

(b) after examining part of that program or data, knows or ought reasonably to know that the program or data examined relates wholly or partly to any of the matters referred to in subsection (3); and

(c) continues to examine that program or data;

is liable to imprisonment for 2 years.".

I have heard what the Attorney has said, and I understand the Government position. Nonetheless, the Opposition does maintain this amendment principally on that point of principle that we prefer to separate offences. Despite the express views of the sentencing judge, we prefer to distinguish between the levels of offence. The arguments have been well traversed. I do not intend to repeat what I earlier said.

Amendment negatived.

Clause agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill agreed to.

ROYAL COMMISSIONS BILL 1990

MR COLLAERY (Attorney-General) (12.03 am): I move:

That this Bill be agreed to in principle.

The Royal Commissions Bill 1990, the Inquiries Bill 1990 and the Royal Commissions and Inquiries (Consequential Provisions) Bill 1990 are presented as a package as they deal with the same subject matter - the provision for the establishment of official inquiries in the Territory.

The Royal Commissions Bill provides for the Executive to establish a royal commission. Power to establish a royal commission is an essential adjunct to effective government. A commission would be set up only where there was a matter of substantial importance affecting the Territory. The terms of the commission would be determined by the Executive. The Bill provides for the same protection for a commissioner as for a judge of the Supreme Court, for a report of a commission to have the protection of a document tabled before the Legislative Assembly, for considerable powers of coercion of a witness, and for substantial penalties for contempt for a commission.

Given that currently the Territory has only the Enquiry Act 1938 - which has not been substantively amended for some 20 years - to support an official inquiry into a matter concerning the Territory, the introduction of these three Bills is a considerable advance in the means available to the government of the Territory to investigate and obtain information necessary to enable well-informed decisions to be made and to ensure that well-founded policy is carried out. I present the explanatory memorandum for the Bill.

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

INQUIRIES BILL 1990

MR COLLAERY (Attorney-General) (12.05 am): I move:

> That this Bill be agreed to in principle.

The second of the three Bills to provide for official inquiry in the Territory is the Inquiries Bill 1990. The extent of amendment required to bring the Enquiry Act 1938 up to an appropriate standard was such that it is more efficient to repeal that Act and introduce the Inquiries Bill 1990, which incorporates the essential provisions of the current Act and new provisions necessary to provide for the establishment of a general investigatory body of inquiry.

The Inquiries Bill 1990 provides for the Executive to appoint a board of inquiry to hold a general investigative inquiry into a matter specified in the instrument of appointment. It is intended that such an inquiry would be established to investigate a matter of general importance to the Territory which does not require a royal commission. I present the explanatory memorandum for the Bill.

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

ROYAL COMMISSIONS AND INQUIRIES (CONSEQUENTIAL PROVISIONS) BILL 1990

MR COLLAERY (Attorney-General) (12.07 am): I move:

That this Bill be agreed to in principle.

The third of the three Bills is the Royal Commissions and Inquiries (Consequential Provisions) Bill 1990. The Royal Commissions and Inquiries (Consequential Provisions) Bill 1990 repeals the Enquiry Act 1938, makes technical amendments to the Electricity Act 1971 and the Parole Act 1976, consequent to the royal commissions and inquiries Bills, and provides that the Ombudsman Act 1989 and the Administrative Decisions (Judicial Review) Act 1989 will not apply to the Bills. The Bill also amends the Remand Centres Act 1976 to provide that a person remanded in custody under the Royal Commissions Act 1990 may be detained in a remand centre. I present the explanatory memorandum for the Bill.

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

TRADE MEASUREMENT BILL 1990

MR COLLAERY (Attorney-General) (12.08 am): I move:

That this Bill be agreed to in principle.

I have great pleasure in presenting the Trade Measurement Bill 1990. This Bill is based on model uniform legislation developed through the Standing Committee of Consumer Affairs Ministers, known by its acronym, SCOCAM. I present it to the Assembly, pursuant to the Commonwealth-State-Territory agreement on uniform trade measurement and administration which I signed on behalf of the Australian Capital Territory in July, at the recent meeting of SCOCAM in Perth.

This agreement provides for the enactment by the States and Territories of uniform laws relating to the measurement, labelling and packaging of goods and commodities which are sold to consumers. The agreement also provides for an ongoing ministerial council to meet in conjunction with SCOCAM in the future, and a committee of officers of the respective public services to monitor and oversee the further development of the legislation.

This Bill is a key element in the program of consumer legislation being undertaken by the Alliance Government, which I announced when I introduced the Door-To-Door Trading Bill into the Assembly in August this year. The Government has commenced a coordinated program of reform in consumer affairs law, involving the introduction of new legislation and updating a range of existing legislation. This Bill is an example of new legislation. It will

replace existing legislation enacted over 40 years ago. The Fair Trading Bill, which I expect to be able to present to the Assembly early in the new year, will be another example of new legislation in the Government's program. In other areas, the Government has sought to update existing legislation. The Credit (Amendment) Act 1990, enacted in March 1990, and the Consumer Affairs (Amendment) Act 1990 are examples of this.

These have all been significant reforms which have involved my Law Office and the Consumer Affairs Bureau in a considerable development effort, for which I have no hesitation in commending them. These initiatives also demonstrate the Government's commitment to action in a range of fields which have been neglected in recent years, particularly in the years leading up to self-government.

This Bill is part of a comprehensive trade measurement package including four sets of regulations covering prepackaged articles, weighbridges, measuring instruments such as scales and petrol bowsers, and other matters. The main elements of the package are this Bill and a Trade Measurement (Administration) Bill which will deal with matters such as the appointment of inspectors and other staff to administer the scheme. These staff will transfer from the present office of trading standards in the Consumer Affairs Bureau.

Taken together, these measures form a large and quite complex package of legislation. It regulates an area of considerable importance to the average consumer, even though for the most part he or she transacts almost daily as a consumer in the purchase of measured goods or commodities without being aware of the system of regulation which underpins those transactions. The average consumer has no choice but to take it for granted that the set of scales, or the petrol pump, or the label stating a weight which determines the price he or she is to pay for goods, is correct. He or she has no means of checking. The maintenance and calibration of such measuring machines is a highly technical area. The consumer is entirely in the hands of the trade measurement regulators and the laws under which they operate, particularly in these days when automatic measuring machines and prepackaged articles and commodities are more and more available.

Regulation in this area by the government agency goes on quietly and without fanfare; but, if you were tempted to think that it was unnecessary, then I suggest that you visit the trade measurement office at Kingston and talk to its inspectors, take a look at the large store of illegally labelled or packaged goods which the office has confiscated or, better still, visit the Magistrates Court on one of those all too regular occasions when the agency is obliged to prosecute traders for attempting to rip-off the public.

In a sense it is unfortunate that such regulation is necessary, but the reality is that there is a significant minority of traders who are prepared to adopt unfair practices and it falls to the Government to develop a scheme to protect consumers from them. The concept of caveat emptor, or "let the buyer beware", is no longer appropriate to the sophisticated, highly technical marketplace of today because the normal consumer simply cannot properly examine or check goods before he or she buys them. Indeed, a vast range of goods are packaged so that this is impossible.

Of course, this measure will be welcomed by the majority of traders also. For them it means an improved regulation of competitors who are not prepared to compete by fair means, and, more importantly, it means certainty. The trader can be sure that the law relating to trade measurement will be the same in the ACT and in New South Wales, and any other place in Australia. I wish to conclude by congratulating my government officials on this Bill and by commending the work of the officers of the ACT Public Service who are continuing to work on the development of the package. I unreservedly commend this Bill to the Assembly. I look forward to the commencement of the uniform trade measurement scheme in 1991. I present the explanatory memorandum for this Bill.

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

POISONS AND DRUGS (AMENDMENT) BILL 1990

MR HUMPHRIES (Minister for Health, Education and the Arts) (12.13 am): I move:

> That this Bill be agreed to in principle.

I table today the poisons and Drugs (Amendment) Bill 1990 to amend items in the schedules. It is an important measure to update ACT poisons lists to implement the most recent recommendations of Australia's foremost health and medical authority, the National Health and Medical Research Council, for the scheduling of poisons and drugs.

To place the legislation in context, let me state that there is a strong commitment to the policy that there should be sensible harmonisation and consistency in scheduling of drugs throughout Australia. The NHMRC has a standard for the uniform scheduling of drugs and poisons - SUSDP for short. Amending schedules are adopted by the council on the recommendations of the Drugs and Poisons Schedule Committee each half year, and the latest published schedules should replace those included in the existing Act. The standard has, whenever practicable, been implemented by the ACT Board of Health. In order to continue this practice, revised schedules of drugs and poisons published under the Poisons and Drugs Act 1978 have

been prepared to bring them into line with the standard. The last update of the schedules in the Act was on 21 December 1988.

I would like to briefly explain the different schedules dealt with by the amendments. Schedule 1, S1, medicinal poisons, covers poisons of sufficient danger to health to warrant their being available only from medical practitioners, pharmacists or veterinary surgeons. The purpose of this schedule is to ensure that these potentially dangerous substances are sold under the direct supervision of the poisons licence holder and a record of the transaction is made.

Schedule 2, S2, medicinal poisons, covers poisons for therapeutic use that are available to the public only from pharmacies and from persons licensed to sell schedule 2 poisons. Medicinal poisons in schedule 2 are used to treat minor illnesses and include the commonly used cough and cold preparations, analgesics and local anaesthetics. The purpose of the schedule is to ensure that those medicines are readily available to the public while, at the same time, reasonable controls are exercised on their package size, warning and cautionary labels. This type of scheduling affords the opportunity for the patient to receive counselling and appropriate treatment at the point of sale.

Schedule 3, S3, potent medicinal poisons, covers poisons for therapeutic use that are sufficiently dangerous or liable to abuse to warrant their availability to the public being restricted to supply by pharmacists, medical practitioners, dentists or veterinary surgeons where professional control, advice on use and monitoring of sales can be carried out. The purpose of this schedule is to ensure that appropriate counselling is available with each sale, which is achieved by requiring schedule 3 items to be stored out of access of customers.

Schedule 4, S4, prescription only medicinal poisons, covers poisons that should, in the public interest, be restricted to medicinal, dental or veterinary prescription or supply. The purpose of this schedule is to ensure correct diagnosis and treatment of illness and to limit the possibility of abuse. Accordingly, schedule 4 items may be supplied only on a valid prescription that has a life of 12 months, and there must be adequate instructions and labelling.

Schedule 5, S5, domestic poisons, covers poisons of a hazardous nature that must be readily available to the public but require caution in handling, storage and use. They must be packaged in a container that is readily distinguishable from any container from which food or drink is supplied and carry special warnings and first aid instructions. The purpose of this schedule is to ensure that these poisons are sold in safe containers and that they are adequately labelled with warning and first aid statements.

Schedule 6, S6, industrial and agricultural poisons covers poisons that must be available to the public but are of a more hazardous or poisonous nature than those classified in schedule 5. They must be packed in poison containers. The purpose of this schedule is to ensure that these more dangerous poisons are sold in safe containers and that they carry adequate cautionary warning statements and detailed first aid instructions.

Schedule 7, S7, dangerous poisons, covers poisons that require special precautions in manufacture, handling, storage and use, or special individual regulations regulating labelling and/or availability. Special conditions apply according to the particular substance. In some cases, authority to purchase is required. The purpose of this schedule is to ensure that these dangerous poisons are correctly labelled, packaged and safely stored and that they are used only by those persons knowledgeable in the hazards of using these products.

The NHMRC sought to have these revised schedules in place by 25 December 1990. Through this legislation, the ACT will be among the first jurisdictions to be completely up to date and in line with the NHMRC guidelines.

The poisons legislation is concerned with all poisons, including pesticides and industrial chemicals, which have an impact on health. In other words, it is to safeguard public health. There are no new costs involved in either the making of the amendments or their introduction. They are of a regulatory nature and considered necessary, as I have mentioned, to bring the ACT into line with the National Health and Medical Research Council's recommendations, as well as maintaining the policy of harmonisation of drugs and poisons schedules in all States and Territories.

Extensive consultation has taken place between the National Health and Medical Research Council, all States and Territories, and industry and consumer groups on the changes in the schedules of drugs and poisons. This is normal procedure before any recommendation is made by the council.

There are many hundreds of items involved in the amendment, but I would like to focus on some consumer items of importance. Because of the continuing abuse of hypnotics and sedatives in the community, all preparations of chloral hydrate for internal use will be available on prescription only. Crystal violet, also known as gentian violet and used as a topical antiseptic, is a new entry in schedule 4 and will be available on prescription only. There are better products available for treating bacterial and fungal infections of the skin, and recent overseas studies in animals have shown crystal violet to have some toxicity.

Skin preparations based on mercury have been commonly used as freckle removers. These skin depigmentation preparations will be available on prescription only. Products which do not contain mercury as a fading agent for freckles, sunburn and sallowness may remain available over the counter from pharmacies. Golden Eye Ointment also remains available over the counter. Cough suppressant preparations containing oxolamine will be supplied only on prescription because of some reports on its possible toxicity. Conversely, several products currently available only on prescription will be available without prescription from pharmacies.

The antihistamine terfenadine, available in the ACT under the name Teldane, which is used for the relief of hayfever symptoms, is a new entry in schedule 3 for oral preparations containing not more than 60 milligrams of terfenadine in packs of 20 or less. This means that Teldane will join a number of other antihistamines which can be purchased without prescriptions from pharmacies. Previously it had been in schedule 4 in all States and Territories, except New South Wales, where it was transferred to schedule 3 from 24 August this year. However, all terfenadine preparations other than the ones I mentioned will remain in schedule 4.

Nystatin preparations for the treatment of fungal infections of the skin will be available to be purchased without prescription from pharmacies. Miconazole, in preparations for the treatment of oral candidiasis, joins miconazole preparations for the treatment of fungal infections of the skin in being available without prescription. The analgesic ibuprofen, used for the temporary relief of moderate pain, in preparations containing not more than 200 milligrams or ibuprofen in packs of 50 or less will be available without prescription from pharmacies. At the time of purchase from the pharmacist, appropriate counselling on ibuprofen's use for the relief of pain will be provided. But all other preparations of ibuprofen remain in schedule 4.

Finally, children's mixtures containing paracetamol for the relief of pain and fever have been available from pharmacies only. In order to achieve consistency, all tablets, capsules or granules containing paracetamol as the only active ingredient when labelled for the treatment of children under seven years of age will be available only from pharmacies. I now present the explanatory memorandum for the Bill.

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

DRUGS OF DEPENDENCE (AMENDMENT) BILL 1990

MR HUMPHRIES (Minister for Health, Education and the Arts) (12.23 am): I move:

That this Bill be agreed to in principle.

I table today the Drugs of Dependence (Amendment) Bill 1990, which complements the Poisons and Drugs (Amendment) Bill 1990 and completes the update of the drugs schedules in line with the recommendations of the National Health and Medical Research Council. Schedules 1 and 2 of the Drugs of Dependence Act 1989 cover those drugs to which the restrictions of the Williams Royal Commission of Inquiry into Drugs 1980 and the United Nations Single Convention on Narcotic Drugs apply.

Schedule 1 drugs are drugs of dependence which have legitimate medical purposes, but are illegal for recreational use and have a high potential for addiction. The purpose of this schedule is to ensure that legal requirements for the safe keeping, monitoring and recording of all legitimate prescriptions are adhered to and that the drugs are not diverted for illegal use or abuse. Schedule 2 drugs are prohibited drugs which have no medical use.

The effect of the amendment is to repeal schedules 1 to 7 of the Poisons and Drugs Act 1978 and to substitute new schedules for those which have been repealed, and to amend schedules 1 and 2 of the Drugs of Dependence Act 1989. I present the explanatory memorandum for the Bill.

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

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Inquiry into the Priorities Review Board Review

MS FOLLETT (Leader of the Opposition) (12.26 am): I present the following papers:

Public Accounts - Standing Committee - Inquiry into the Priorities Review Board Review - Report No. 2, dated December 1990.
Copies of extracts of minutes of proceedings.

I move:

That the report be noted.

In presenting this report I would first of all like to express my thanks and those of all of the committee members to the secretariat, which is headed up by Karin Malmberg. We have the research assistant, Judy Starcevich, and the keyboard and administrative person is Kim Blackburn. They have done a wonderful job and have the thanks of all of the committee.

The Public Accounts Committee made a unanimous decision to take on this inquiry into the Priorities Review Board. It is pleasing to me that the report that we are presenting tonight is also a unanimous report. The fact that it is a unanimous report would indicate to the Assembly that there has been a bit of give and take on the substance of that report in the Public Accounts Committee.

The terms of reference that we took on in relation to the Priorities Review Board concentrated on the mechanics of the PRB. I would expect members of this Assembly to be more than familiar with my views on the recommendations of the PRB. The Public Accounts Committee has not examined those recommendations because, as I say, we were more concerned with the conduct and the processes of the review, the costs and, particularly, the use of consultants.

In approaching the task of looking at the PRB from that perspective, we came across a couple of constraints very early on; the first of which was that the Priorities Review Board itself was not actually available to come and see the Public Accounts Committee - it having been disbanded - although we did speak informally to a couple of members of the board. We also found that there were, in fact, very few formal records of the PRB's activities. That was a problem for us. In fact, it was in quite sharp contrast to the Else-Mitchell inquiry that went on at much the same time. The Else-Mitchell inquiry not only made a lot of their material available, but also placed all of their records and information centrally for public access at a later date.

Another constraint that we found was that, in relation to any number of questions that the committee asked concerning methods of hiring consultants and methods of taking a number of actions, the answer invariably seemed to be that the time constraints imposed on the PRB more or less short-circuited all kinds of methods. We have accepted that the time frame involved was, in fact, the Chief Minister's prerogative. I do believe that it has led to a number of problems and the recommendations contained in our report indicate what some of those problems were.

I will not go through the recommendations in any detail. I know that it is late and members can read them for themselves. But I will touch on some of the more interesting ones. It is important to note that, in setting up a board like the Priorities Review Board, there was widespread community concern at the make-up of that board, and in particular the view was expressed to the committee that the trade union movement, community groups, health consumers, parents and so on, would have liked a more direct voice on that board. As it was, the board was made up almost exclusively of business people. The committee has recommended that future inquiries have a broader range of people on the board itself.

We have also made a number of recommendations relating to the use of consultants. That is really the only other major point that I will make tonight. We were aware, of course, that there were draft guidelines for consultancies available at the time. The problem was that they were not used, and the committee, I think rightly, expressed some concern at the apparent ease with which all of the consultancies in the PRB were exempted from those guidelines. We were also quite concerned that they remain as draft guidelines. The Public Accounts Committee has recommended that the draft guidelines be firmed up quite considerably and that some consideration be given to making them mandatory.

We have also recommended that the consultancies be subject to the normal standards of accountability and, in particular, that they be monitored and be responsible to somebody within the ACT Administration. In the case of the PRB, that did not happen. The committee felt that that ought to be the case. We also would like to see a written report for every consultancy, no matter how small it is. I do not think that that is an undue impost on a consultant. As I say, I will leave the report to members to study and to respond to. I would like, again, to thank the secretariat and, of course, my fellow committee members for working on this reference.

MR JENSEN (12.32 am): I will keep my remarks on this matter reasonably brief. Let me say from the outset that, despite some suggestions by the Opposition to the contrary, it is my view that it was quite appropriate for the Chief Minister to seek information to assist in the development of a much needed budget strategy. Of particular importance was the need to use outside advice rather than use a group from within the ACT Public Service.

Before any of you opposite or anybody else seeks to suggest that I am casting aspersions on the ACT Government Service, let me say that, with the advent of self-government and changed administrative orders after September 1989, their energies were better used on other tasks. Also, a group independent of the ACT Government Service using outside consultants would, in fact, provide a report which could be seen as independent from that service, especially as the executive officer for the inquiry was an outside appointment. This approach was accepted at paragraph 2.5 of the report.

Ms Follett has already made some comments in relation to the availability to the committee of information in relation to the PRB inquiry. I will not comment further on that. In relation to membership, I acknowledge that it was the Chief Minister's decision to decide who, in fact, should be on the board; but I think it was appropriate to make a comment in relation to wider representation which may have assisted the board on a couple of occasions. Ms Follett has commented, once again, on the use of consultants.

One other aspect related to the cost of the ACT officials in paragraph 3.10 of the report. The committee considered that that cost should have, in fact, been included as part of the overall costing just to make sure that we knew exactly how much the total cost was for that particular report. Clearly, formal guidelines are needed for the employment of consultants. I think the committee also suggested, in one of its further recommendations, that the matter of consultancies was an important aspect for the Public Accounts Committee to look at and that it would be important for that to be monitored over a period of time.

In closing my remarks, once again, I would like to pay tribute to the members of the committee staff who have always provided sterling service. I note, in particular, that for one of those officials it was the first major report that she had total involvement with. I would like to welcome her to the team on that basis. The report, as the members will see, provides an assessment, if you like, of the Priorities Review Board process, seeking to provide guidelines for the future preparation of such reports. I think it is an appropriate process to be provided and operated on by the Public Accounts Committee.

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

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on 1989-90 Budget Funding for Additional Domestic Violence Refuge for Women

MS FOLLETT (Leader of the Opposition) (12.36 am): I present the following papers:

> Public Accounts - Standing Committee - 1989-90 Budget Funding for an Additional Domestic Refuge for Women -
> Report No. 3, dated December 1990.
> Copies of extracts of minutes of proceedings.

I move:

> That the report be noted.

It was Mrs Nolan who, in fact, threw down the gauntlet on the question of the additional domestic violence refuge in question time on 1 May. At that time Mrs Nolan asked me, as chairman of the Public Accounts Committee, whether I would investigate whether a sum of $142,000 was set aside in the 1989-90 budget to build a second women's domestic violence crisis refuge, whether I would ascertain whether this amount was for a part year cost only, and whether the full year effect was $238,000; and, if so, why those funds were not separately appropriated in the Appropriation Bill 1989. I was also requested to advise how the former Government's budget process allowed the supported accommodation assistance program's additional funding, which is required for urgent ongoing grants in the area of youth homelessness and other support, to be allocated to a domestic violence crisis refuge under the guise of a separate appropriation.

Needless to say, I was only too happy to oblige Mrs Nolan in taking on that inquiry, although anybody who has read it through would see that it is internally inconsistent. Nevertheless, that was the hallmark of this entire inquiry. To do justice to Mrs Nolan, I do not believe that she thought up that question.

Mr Collaery: I gave it to her.

MS FOLLETT: I would have thought so. Mr Collaery remarks that he gave it to her. That comes as no surprise. In looking at the question of the funding of the second domestic violence refuge in last year's budget, the committee was very concerned to find that most of the information offered to us was confusing and totally contradictory. We had submissions from the Ministers involved. We had information from bureaucrats involved. We had a debate in the Estimates Committee. I think the matter was also the subject of a matter of public importance.

All of the information gleaned was contradictory, confusing and inconclusive. We concluded, informally, in the committee, that there had been a range of matters which had affected the outcome for the second domestic violence refuge, one of which was, in fact, the time that had elapsed since the decision was taken, and another matter was, of course, the change of government and a subsequent change of administrative arrangements in the ACT Government Service.

Nevertheless, it must be said that the whole issue of the second domestic violence refuge was, I believe, the subject of an administrative misunderstanding. The committee made some unanimous conclusions. We came to those conclusions from the point of view that there was very little to be gained for the ACT community by the committee undertaking a witch-hunt to find out exactly where the administrative difficulties had occurred. We came to some conclusions which I think will be helpful to the Assembly.

Firstly, we did find that the second domestic violence refuge for women was quite clearly an intention of my Government; that it had been publicly stated, and that it was stated in the budget papers. We also concluded that there was an apparent intention that the funding for that refuge should come from SAAP. Of course, at that time, negotiations for SAAP projects had not been concluded. We found, in the course of our inquiries, that, in fact, the refuge was never put forward for SAAP funding. That is where the apparent administrative error occurred.

The committee felt that, in future, where there is a project like this that is subject to a formal agreement, as is required under SAAP funding, it is probably worthwhile that the budget papers should state that. I trust that the current Government will take on that burden as well.

Mr Jensen: Good one, Rosemary.

MS FOLLETT: That was Mr Jensen's inclusion. However, to briefly answer the concerns that Mrs Nolan raised in her reference, we did find that the funding level for the refuge was $142,000 for a part year and $238,000 for a full year. We found that there was no requirement under the ACT Audit Act and Finance Regulations for a separate appropriation of funds for such a refuge. The committee also formed the view that the question of funding for youth homelessness was not relevant and did not affect the funding for a domestic violence refuge.

MR JENSEN (12.42 am): There are a couple of issues that I want to make some comment on in these closing stages of this long sitting. One of the issues that I was concerned about when, in fact, I got involved with this particular inquiry was that the chairman of the committee, in fact, had been one of the major players in the events that we were in fact inquiring into. I would have thought that, in

view of the comments that Mr Berry has made in relation to impartiality of committees, Ms Follett may have thought it appropriate to stand down for the period of that particular inquiry.

The point that I am making is that, in fact, a lot of the matters that we looked at within the committee occurred in the period when the chairman of the committee was in fact the responsible Minister. As I said, in relation to the comments that Mr Berry has made about impartiality, I thought it was unfortunate that Ms Follett did not stand down for that period of that particular inquiry.

Ms Follett: You could have moved a motion. You had the numbers.

MR JENSEN: Oh, yes, Ms Follett; but, in my sort of fashion of operating in committees in a bipartisan approach - which is the way that I normally propose to operate within committees, despite what Mr Berry may consider - I gave you the option, Ms Follett, knowing full well that I would have been able to make these comments this evening.

One of the main issues for me on this matter was how the proposal was to be funded. Was it to be funded on budget or through the SAAP program? If the former, was it, in fact, included in the budget? If it was for SAAP, the timing of the agreement on joint programming meant that a punt, in fact, had to be taken on the availability of the funds.

Therefore, the question for me was: were the funds allocated in division 170 of the 1989-90 Budget Appropriation Bill outside of the SAAP application? It is clear that the division 170 allocation certainly included an amount for SAAP. There is no doubt about that. That is not a problem. When the calculations were being done by the Follett Government, the problem was, in fact, whether it was likely that the funds for that particular program were going to come out of the money that was being allocated out of the budget or out of SAAP. In fact there was no clear evidence available to the committee.

There is no doubt, in fact, that the Treasury was technically correct in its response to the Estimates Committee. It can depend on the question that was asked. For example, was the refuge included in the process which identified the amount, less the SAAP program funds, yet to be broken down and agreed to by the ACT and Federal Health Ministers, or was it designed to always come out of the SAAP funding program? No information, unfortunately, was available to formally clarify the question. Therefore, as Ms Follett has indicated, the committee decided that there was no point in conducting a witch-hunt. It is not a legal problem, but it is an issue worth looking at, nonetheless, even if only to clarify the legitimate concerns of Mr Collaery in relation to a couple of matters.

The budget papers, as Ms Follett has already indicated, should clearly reflect such situations in the future and identify within them when it is not definite whether the money is to be available that, in fact, it will be provided out of SAAP, so that there are no problems at all. The hour is late, and I think it is time for my remarks to conclude. On that basis I will finish my comments on this report.

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

DAYS OF MEETING 1991

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

> That, unless the Speaker fixes an alternative day or hour of meeting on receipt of a request in writing from an absolute majority of Members, or the Assembly otherwise orders, the Assembly shall meet as follows for 1991:

February	12	13	14
	19	20	21
March	12	13	14
	19	20	21
April	16	17	18
	30		
May		1	2
	28	29	30
June	4	5	6
August	6	7	8
	13	14	15
September	10	11	12
	17	18	19
October	15	16	17
	22	23	24
November	19	20	21
	26	27	28
December	10	11	12

PUBLICATIONS CONTROL (AMENDMENT) BILL (NO. 2) 1990
Speaker's Ruling

MR SPEAKER: On Wednesday Mr Stevenson presented to the Assembly a private members' Bill entitled Publications Control (Amendment) Bill (No. 2) 1990. During the introductory proceedings, I raised with Mr Stevenson the possibility that the Bill might contravene standing order 136. However, I indicated that I had not had the opportunity to consider the Bill in detail and would reserve my ruling until I had done so. When he rose to take the adjournment of the Bill, the Attorney-General formally raised the point of order on the Bill's possible contravention of standing order 136.

I have since examined the Bill in detail and note that clause 3 of the Bill is the same as clause 3 in an earlier Bill, except that new subclause (b) has been added, which amends the definition of "publish" in the principal Act to include "distribute and transmit through the use of a facsimile machine, a computer or other electronic means". As the definition of an X-rated film in the first Bill includes "any other form of recording from which a visual image can be produced", the definition of "publish" in the principal Act, when used in relation to a film or objectionable publication, would extend to the distribution or transmission of facsimile or computer messages capable of producing a visual image of an objectionable publication or X-rated film without any express amendment of the definition.

The Bill does substantially duplicate the clauses of the earlier Bill. The object of Wednesday's Bill is the same as that of the first Bill, and any legal interpretation of the two Bills would be similar. Standing order 136 states:

> The Speaker may disallow any motion or amendment which is the same in substance as any question which, during that calendar year, has been resolved in the affirmative or negative ...

Having considered the Bill introduced on Wednesday, I must conclude that it is the same in substance as that negatived by the Assembly on 24 April this year. I, therefore, call on the Attorney-General to move the appropriate motion under standing order 170.

MR COLLAERY (Attorney-General) (12.49 am): Pursuant to standing order 170, I move:

> That the Publications Control (Amendment) Bill (No. 2) 1990 be withdrawn.

Question resolved in the affirmative.

VALEDICTORY

MR SPEAKER: Just before we conclude, as this is our last day of sitting for the year, before the question that the Assembly do now adjourn is proposed, I would like to take a few moments to express my appreciation, as Speaker, to those people who have assisted the Assembly throughout its second calendar year of operation.

I would like to thank you, the members, for the support you have given the Chair during this year. To you and your families, may I sincerely express the greetings of the season. I would like to place on the record the debt the Assembly owes to the Clerks at the table, and their staff, for their dedicated service and sound procedural advice throughout this, at times, turbulent year.

I would be remiss if I did not also mention the staff of the secretariat who, particularly on nights such as this, work back till the wee hours. There is also the staff of the library, who give us valiant service. I also mention the Australian Protective Services staff, who I am sure would all like to be home right now. There are also the officers of the ACT Government Service, who have assisted the operation of the Assembly, and there are also the members of the press gallery.

I take this opportunity to wish all the people mentioned, and any that I may have missed, a safe and happy Christmas and a prosperous new year.

ADJOURNMENT

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

> That the Assembly do now adjourn.

Valedictory

MR KAINE (Chief Minister) (12.51 am): I think that I probably created something of a record this year in that I do not recall that I have spoken in the adjournment debate; and I do not usually speak in the adjournment debate because it is usually at the end of a very long day and I believe that it is usually time to get away from the stresses and strains.

But I think this is an occasion when, on behalf of the Government, I should echo your comments, Mr Speaker, and say a few words of thanks to a small band of people who do a great deal to ensure that this Assembly works well. I refer specifically to the Clerk and the staff of the Assembly, and the secretariat of the committees. Their output, of course, is very much a product of what we, on

the floor of the house, generate and I think that what they have done throughout the whole year has contributed greatly to the successful year of the Assembly. I think that what they have done in the last three or four days is probably above and beyond the call of duty, considering the amount of work that they have had to do to bring this Assembly to its successful conclusion tonight.

Mr Speaker, you mentioned others, and I share your feelings about those people - the other support staff in this building. I also would like to comment on the press gallery. I believe that they generally present the Assembly in a fair way. Some of us do not like what they say from time to time, because perhaps they attack our sensitivities and our vices and our prejudices. So we do not always like it, but I believe it is fair to say that, generally speaking, the press gallery does a fair and reasonable job of reporting the proceedings and other matters related to the Assembly.

I trust that, just as I am going to recharge my batteries, the other members will do the same; and that the staff and the press gallery are also able to do the same, and we can come back with renewed enthusiasm for another hard and fun year next year.

Alliance Government : Valedictory

MRS GRASSBY (12.54 am): Mr Speaker, we find ourselves in the dying moments of this sitting of this Assembly of 1990 - and I am hoping that I will make the Cherry Ripe, but never mind. I wish I could say that I feel content with the progress the Assembly has made this year, but I cannot. We are leaving tonight in the knowledge that Mr Collaery will become Acting Chief Minister and Mr Duby will become Acting Deputy Chief Minister. The thought of this would stop Snow White from waking up forever, I am quite sure. Two of the dwarfs will be on holidays and two of them will be looking after the mine and the apple factory. Who needs a wicked stepmother! Mr Collaery has already shown his power today, as Mr Tough Guy, with the supported accommodation assistance program.

The ministerial advisory committee has been seeking an appointment with him, but has been told to speak to one of the bureaucrats. They believed that they were ministerial advisers, and have again asked to speak to Mr Collaery, but the answer was no. The ultimatum came down from high, "Speak to Ken Horsham or you will be dismissed". I have it on good advice that they will only see Mr Collaery, and consequently we will have no ministerial advisory committee after tomorrow.

If this is Mr Collaery's idea of Christmas cheer, then I would hate to see him during Lent. What next? We will probably see him gambling for their cloaks. I think poor old Mickey will end up having to give back his new Christmas watch after this.

Also, I understand that a Christmas tree is being put up in Petrie Plaza at the cost of between $30,000 and $40,000. This is quite unbelievable when a pine tree, as has been used every year, is quite sufficient. We are closing down schools and hospitals when $30,000 or $40,000 would have even paid a teacher's salary. Every year we have used pine trees for Christmas trees and at the end of the year they are sent off to the mill. I really am sorry to see that we are going to have this tree. As I say, I think it is much nicer to have a real tree there than to have some ornamental one that has cost between $30,000 and $40,000.

Anyway, thank goodness the Chief Minister is so concerned that he has refused to allow any of the senior bureaucrats to take any leave. So, instead of having the Phantom of the Opera and his mate taking care of the ACT we will have the bureaucrats.

Mr Duby: We wanted them here.

MRS GRASSBY: But, with you, Mr Speaker, I would like to thank all the staff of the Assembly for their help through the year and - - -

Mr Duby: They were not allowed to go.

MRS GRASSBY: That is right; they were not allowed to take any holidays, that is for sure. I would like to thank all the staff who have kept this Assembly going through the 12 months, and particularly my own staff and all the staff of our area on the first floor who have been wonderful through this year. I wish them all a merry Christmas - everyone who has anything to do with this Assembly and even the circus on the other side.

Australian War Memorial

MR COLLAERY (Attorney-General) (12.58 am): Mr Speaker, I rise to join fellow Australians who oppose the recent decision by the Council of the Australian War Memorial to charge an entrance fee to visit the Australian War Memorial. At the outset let me say that the War Memorial is not an exclusive Federal monument. It is our local war memorial as well. The people of the Canberra region also pay homage there to courage and sacrifice, and the resilience of our local sons and daughters who made common cause with other Australians against the invader.

I doubt that anyone would charge an entrance fee to a war cemetery. For many of us the Australian War Memorial has just that status. My father, like his father, went to school in our Canberra region and has no known grave; nor do many of his mates. As a child I was brought to the War Memorial to make contact with the ethos that motivated the man I never met. The cosmetic device of allowing free access to the Hall of Honour is totally insensitive to those of us who go beyond the Honour Roll to pay silent tribute at the exhibits. For me it is akin to allowing a sideshow in a cemetery. Many times I have seen men and women standing quietly before an exhibit. I ask council members to make an unobtrusive visit to the galleries. There, every now and then, they will see a lonely figure, a quiet Australian making a pilgrimage and, for some ageing ex-service men and women, a twilight visit to a scene of sacrifice to recall fellowship and mateship in a moment of quiet repose.

I also ask the council to consider another aspect: the origin of much of the memorial's collection from relatives who have surrendered a treasured memento in the expectation that it would be honoured, not commercialised. Indeed, I recently found, when cleaning up some family affairs, hundreds of letters and photographs covering the life and times of a young Australian airman. One letter speaks of finding a book of Australasian verse in a London bookshop and reading it to RAF pilots in the operations room before sorties. I considered giving them to the War Memorial. I have now made my mind up, Mr Speaker. They will not be given to a desecrated tourist resort. Shame on the council for not consulting the community, particularly the relatives of those who paid the supreme sacrifice.

School and TAFE Leavers : Valedictory

MR JENSEN (1.00 am): Mr Speaker, before I begin on some of the brief things I was going to say, I would like to echo the comments by my colleague Mr Collaery in relation to the War Memorial. I share Mr Collaery's sentiments in relation to that matter, and I would encourage those responsible for the War Memorial to reconsider that decision.

At this time of the year, many of our young people are in the final stages of their college or TAFE education and are about to embark on a search for a new career. This is an important stage in their lives and, as a parent with a son leaving college and a daughter completing a TAFE course, I am well aware of some of their concerns as we see the economic recession starting to bite.

It is appropriate, I believe, for the Assembly to wish these students well in their search for a new career. It is also appropriate to thank those teachers, boards and P and C associations who have worked during the last two years of our children's lives to prepare them for their

change from school to jobs or, in some cases, to tertiary education. I would like to wish all these groups all the best for 1991 and beyond.

I have a couple of other brief matters. Normally I would use the Christian name of the person I am about to congratulate; but, in deference of the proceedings of this house, I will wish Dr Kinloch a happy birthday. I would also like to echo the comments that have been made in relation to the sterling support provided by all members of the staff of the Assembly to the members here, from the top to the bottom. It has been a sterling job. I would also like to thank those members of my own staff who have assisted me throughout this year.

Valedictory : Education and Health Systems

MR BERRY (1.02 am): I too would like to thank very much the staff of the Assembly for their tolerance and assistance throughout the year. Without their assistance, of course, the Opposition members of the Assembly would not be able to do the work which is required of an Opposition in this place. My thanks go out to them. I hope that they have a fine time with their families and friends over the festive season, and I wish for them all that I would wish for myself.

I think this period of the year should be a period of reflection for the Assembly on the time which has passed during the course of 1990. It is important that we, as Assembly members, think about what has occurred during this year. I think we have to consider the feelings of those people whose schools will not reopen next year. We have to consider the feelings of those people who have been involved in a bitter struggle over schools, and the scars that that will leave on those people.

We also have to consider the positive side of that; that the community has been drawn together and recognises the importance of self-government to the Territory and the impact the Assembly will have on the future of the Territory. It is truly a time for reflection for all of us. I think nobody from this Assembly could go through the festive season without reflecting on the results of this year's deliberations, in this place, in the Executive offices, and in other parts of the bureaucracy.

That reflection should also prevail in respect of our health system and any other area which has been affected by the deliberations of this Assembly. It is a requirement that not only the majority but also the Opposition reflect on those areas and those members of the community and, of course, both groups within this Assembly should reflect on how they can better serve the community during 1991. A great proportion of the community believes that this Assembly must do better in 1991, and I agree with them.

I would like to thank the Government for providing a more than adequate supply of slow-moving targets throughout the year. I am most pleased to have participated in an active debate of issues of concern, not only to the Labor Opposition but to the community generally. I hope that they will respect the Opposition for the thrust and parry of public relations with regard to the Assembly's performance.

Mr Jensen: As long as you keep it clean, Wayne, we do not mind.

MR BERRY: We will not keep it clean, but what we will do is make sure that our role in this place is effective in pursuing, in social justice terms, the policies that we went to an election with. I can promise the members of the Government that when we come back with our batteries fully charged the pressure will be applied at an even higher rate.

Alliance Government : Valedictory

MR MOORE (1.07 am): I would like to continue on from Mr Berry, who is going to somehow or other allow his batteries to recharge. Mine are just about there and I look forward to ensuring that over the Christmas period that thrust and parry still continues and that my role in this Assembly, and as far as the community is concerned, still continues.

I think it is most important to re-emphasise what Mr Berry just said about the feelings of the members of the community. Those feelings are not to be dismissed, as I have heard done on a number of occasions in this house, as emotive reactions. The feelings are very deep-seated, particularly the feelings about the concept of the planning of Canberra, as represented in the neighbourhood; about the damage that has been done by the Alliance Government to a school; and, in particular in an area of personal interest to me, about the morale of the teaching staff and the parents in respect of the education system. It has been an absolute disaster and I think it is something that we all are going to have to work at to try to rebuild over the next year.

I still quake when I think of what else this Alliance Government may have in store for the people of Canberra. It is certainly true that a large number of very positive steps have been taken by the Alliance Government, but they are so totally outweighed by the damage that it has done in terms of our health and our education that they have paled into insignificance. The most positive thing that I am aware of is the attempt to bring forward the planning and land management legislation, and I look forward to a very positive debate in those areas.

Mr Speaker, I would like to thank you and other members of the Assembly for the rather interesting times this year; and, of course, in respect of the support staff, I would like to echo the sentiments expressed before. I would like to turn just shortly to the media gallery, since we are fortunate to have some media representatives here. It has been my contention that, by and large, they have dealt fairly with us. I think that on a number of occasions when all of us have felt a little vulnerable the situation has been not so much to do with their perceptions as ours.

I would like to draw particular attention to one article that has given us all a great deal of mirth and enjoyment. I refer to that very good article by Chris Uhlmann. I want to say, before anybody else has a chance to comment, that I appreciated the thing in toto. I know that Mr Jensen drew the short straw, fortunately, and there were a lot of other interesting comments. It is that sort of statement and that sort of pun that we have enjoyed, and I think it has actually lightened the frame for members of the Assembly. But that followed not too long after the Alliance Government took a day or so to consider their own image. At the time, I said - and I would like to remind you of it now - that, if you concentrate on doing things as they ought be done rather than concentrating on your image, your image will follow.

Valedictory

MR HUMPHRIES (Minister for Health, Education and the Arts) (1.11 am): Mr Speaker, I also want to engage in the longstanding parliamentary tradition of making a speech at the adjournment on the last day to wish my colleagues and Assembly members and others goodwill and peace and cheer, et cetera.

Mr Collaery: What is the "et cetera", Gary?

MR HUMPHRIES: Well, I will get on to the "et cetera" in a moment, Mr Speaker. I, of course, will not be here on Christmas Day, but I will be thinking of my colleagues, all of them, in this place.

Mr Stevenson: You will be freezing to death, Gary.

MR HUMPHRIES: I will, indeed, Mr Stevenson. I will be caught in the blizzards of central Oxfordshire where I will be having Christmas, but I will be thinking of all of you here in this place - and I have been thinking already about what you might be doing.

I know that the Chief Minister will probably be sunning himself on a Miami beach, contemplating what pleasantries he might be exchanging with Mr Berry when we resume next year. Mr Duby will no doubt be enjoying the odd party or two on Christmas Day. Ms Maher is not here, but I am

certainly hopeful that she recovers from her back problems very shortly and that, being her usual charitable self, she will be providing a taxi service for others in less fortunate circumstances.

The Deputy Chief Minister will be searching under his bed - for presents. Mr Berry will have a very serious and sober Christmas. He will be planning his tactics for next year, dreaming of what it might be like to be health Minister once again. To Mr Berry, who is not here: pleasant dreams.

The Leader of the Opposition, I am sure, will be at home with her cat and her piano, smoking a cigarette perhaps and eating the odd chocolate or two. I wish her a pleasant Christmas. Mr Wood has been lecturing us today, particularly those of us who are going away, about the evils of not working over Christmas. Mr Wood, as a consequence, I am sure, will be in this place, at his desk working very hard on Christmas Day. And, when he does, he will be able to drop in on Mr Stevenson who, no doubt, will be celebrating Christmas in his office. I think we all expect to see a Christmas stocking on the wall outside the lifts on the first floor. I intend, when I pass them, to pop in a nice little present for Mr Stevenson. Perhaps a copy of the ACT Motor Traffic Act would be nice.

Mr Duby: Or *Debbie Does Dallas.*

MR HUMPHRIES: Or *Debbie Does Dallas*, whatever takes his fancy. Mrs Grassby and Mr Connolly will be, I think, at the Labor Club on Christmas Day, seeing whether they can get together what it takes to give Ms Follett and Mr Berry a real Christmas present, particularly when it comes to preselection some time next year.

Dr Kinloch will be joyously celebrating his Christmas, safe in the knowledge that all of us in this Assembly are brothers and sisters and that, although we might have an odd angry word at times and call each other rats, basically we are all jolly good friends underneath; are we not, Hector?

Mr Moore will be in his natural environment. He will be at the bottom of his garden, looking for fairies. My colleague Mrs Nolan will, I am sure, after a brief Christmas dinner, be out at Tuggeranong stomping the streets and delivering the odd press release or 10 to the *Valley View***.** Mr Stefaniak, I think, will be at the Summernats collecting evidence on how powerfully effective the move-on powers really are.

Finally, Mr Speaker, I imagine that you will be sitting by your Christmas tree on Christmas Day opening your presents, and I think, Mr Speaker, that there will undoubtedly be at least one citizen of the Territory who will be kind enough to put under that tree a nice present - perhaps a nice colourful robe with a little wig to go with it and some nice buckled shoes. I am sure we will enjoy seeing you wear those next year when you return to this place.

To all those who have made life in the Assembly so enjoyable in the last 12 months - the press gallery, the people who have served the Assembly and my colleagues - merry Christmas.

Valedictory

DR KINLOCH (1.16 am): Mr Speaker, we all echo the sentiments about staff and may I say to you, sir, thank you for your presiding over this chamber. It is a very difficult task, and the most difficult task in this place over the past year. I thank Mr Jensen for wishing me well on my 21st birthday - it is 21 multiplied by 3, this very day, 14 December. And I want you to know that when I was born I weighed only five pounds.

Earlier today - yesterday now - on behalf of the Chief Minister I was invited to join the Canberra Jewish community near Parliament House. I do urge everyone to go and see what has been done there. There is a giant menorah about the size of one of these pillars, with the nine lights. These people joyfully met there in a sense of dedication. Indeed the word "Hanukkah" means dedication. There they thought very hard indeed about the festival of lights, as the period of the next eight days is called. They thought very hard about the conditions of peace and war that might occur in the next two or three months. Indeed, let us hope that when we meet next those matters will have been peacefully resolved. I had the very strange but marvellous task - and I felt greatly honoured - of being put in a cherry picker and brought up, together with the rabbi and a head of the Jewish community of Canberra, to light the menorah lights. So, in addition to wishing everyone a merry Christmas, may I also say, "and a Happy Hanukkah".

Valedictory

MR STEVENSON (1.18 am): I wish all members well for Christmas. I reiterate the statements by many members about the wonderful support we have had from the staff in the Assembly. It, indeed, has been exceptional and a great help. I certainly thank my own staff for the wonderful help they have given, and also some of the people who have volunteered through the year. I think many people in this Assembly have had a similar situation with some of the volunteer staff they have had.

I think the next best thing to not having self-government in 1990 would have been to have what was suggested early on in the piece; that is, a collegiate government, or the sort of parliament where everybody was part of the government and where people, indeed, worked together in genuine harmony. I think that would be a far better thing than what we have in this Assembly where we have an Opposition. I do not necessarily think we should be in opposition to anything.

If there is one thing that would be good for 1991 it would be more opportunity to really work together - notwithstanding that we might not be able to get rid of self-government yet - and to use the abilities that each of the members has to bring about those things that people in Canberra want, because I think it is true that only by working together in this Assembly and by people in Canberra working together with us will we achieve the goals that most people have.

World Problems : Valedictory

MR STEFANIAK (1.20 am): Mr Speaker, I rise to make a few points, the first one being, I suppose, that I have already missed out on the raffle. Probably no-one is going to win the Cherry Ripe at the end of the day. I did note that someone was down at about 1.40. You are probably still in there, Michael. Before the traditional thanks, I suppose I should refer to a number of points raised by Mr Wayne Berry in relation to some serious things about this year. All I would like to say is that, coming up to the festive season, I think we are still very lucky here in Canberra, and indeed in Australia, compared with so many other parts of the world.

Look at what is happening around the world. There might be a war in the Middle East. Countries such as Cambodia have had longstanding problems. Indeed, the dreaded Khmer Rouge might get back there. There are problems of starvation in the Third World and, indeed, problems even in Europe, especially in Eastern Europe where people are certainly not nearly as fortunate as we are. So I think we should perhaps contemplate, on a serious note, just how fortunate we really are in Australia and in Canberra and how some of the problems that might seem so major to us, and have seemed so major in Canberra over the years, are so minuscule compared with some of the real difficulties faced by people in less fortunate countries than ours.

Mr Speaker, to you, to the other members of this Assembly, my colleagues, thank you very much for an at times trying but basically very enjoyable and sometimes quite entertaining year. To the staff, especially the secretariat staff - and indeed, some of your own staff, Mr Speaker, with whom I have had a lot of dealings in my role

as Deputy Speaker and to whom I owe a great deal of gratitude, especially for while you were away - my thanks and very best wishes for 1991. Have a very happy festive season.

To the press gallery, to the other members of the Assembly whom we work with, and to the various public servants we deal with, I wish you and your families all the very best for Christmas and the new year.

Valedictory

MR DUBY (Minister for Finance and Urban Services) (1.22 am), in reply: I guess I have the last laugh; I get the last word in the Assembly of 1990. I had a number of things I was going to say, particularly after the comments made by Mrs Grassby and Mr Berry; but I have decided to decline to answer those rather foolish statements. I am going to be brief, Mr Speaker. I am sure I speak for all the members of the Assembly when I thank you for your support through the year. To my fellow members, I say thank you very much. To the support staff and the press gallery, and I suppose each member has their own members of staff that they wish to thank - I do, in particular - I say thank you very much. Let us hope that it is a very happy, holy Christmas for all of us and our families, and a safe one, and we all look forward to getting back in the saddle next year.

Question resolved in the affirmative.

Assembly adjourned at 1.24 am (Friday) until Tuesday, 12 February 1991, at 2.30 pm

ANSWERS TO QUESTIONS

Attorney-General for the ACT

Legislative Assembly Question No. 250

Police Services - Statistics

Mr Connolly - asked the Attorney-General:

1. How many complaints have been received by the Australian Federal Police in the period since May 1989 concerning behaviour in or in the vicinity of pedestrian underpasses in Canberra.

2. What is the average response time necessary for a police car to attend an incident, both during the day and at night:

a) in Canberra as a whole;
b) in Tuggeranong; and
c) in Belconnen.

3. How many of the following offences have been complained of in the Civic area in the six months to the end of June 1990, and how do these figures compare to the same six month period in 1989:

a) assault;
b) theft;
c) offensive behaviour; and
d) drunkenness offences.

4. How many cars are on general patrol duties in Canberra on each day of the week and during the day and night.

5. How many patrol cars are on duty in the Tuggeranong area on each day of the week during the day and night.

Mr Collaery - the answer to the Members question is follows:

1. Australian Federal Police (AFP) ACT Region procedures for the reporting of location of complaints involves the recording of street addresses or building names only. There is no source of information, computer based or otherwise, from which the AFP can obtain statistics concerning behaviour in or in the vicinity of pedestrian underpasses in Canberra.

2. I am advised that prior to the introduction of computer recording.on 29 March 1989, the only time available for statistics on average response times was dispatch to arrival at scene. This time has been constant over the last ten years at about eight minutes .

.../2

It should be noted that response times are now derived from the time AFP Communications receives advice of an incident, to arrival at the scene by the police vehicle which has been given the primary responsibility for the incident. At times this can be a specialist vehicle such as an accident, special operations or bomb squad vehicle. This vehicle is also responsible for the. computer recording of the incident. However, in nearly all incidents, a further police vehicle which may be in,the vicinity of the incident, will attend immediately to determine the appropriate action to be taken such as rescue or re-direction of traffic. As a consequence, the response times listed below do not accurately reflect the actual time it takes for the first police vehicle to arrive at the scene, which can be between two and eight minutes, depending on their location at the time of the incident.

Average response times for police vehicles can only be calculated on a 24 hour period basis and there is no breakdown between day and night. However, response times are broken down into priority 1, 2 and 3 incidents. Times are then further broken down into receipt of advice to arrival at scene; receipt to dispatch; dispatch to arrival at scene; and arrival to departure from scene.

The most relevant time is receipt to arrival at scene and the following statistics are provided for this period:

	Priority 1 (minutes)	Priority 2 (minutes)	Priority 3 (minutes)
a) Canberra (as a whole)	14	19	23
b) South District	13	19	24
c) North District	13	18	23

Following regionalization of police services in the ACT,

Woden and Tuggeranong patrol areas were amalgamated and became known as South District. There is no specific breakdown of response times for Tuggeranong as such.

3. The Computerised On-line Policing System (COPS) was introduced on 29 March 1989 and allows for statistical reporting of incidents and offences. Statistics prior to this date would need to be manually extracted. As the task of obtaining such figures would be a costly, time consuming and labour intensive exercise, statistics for the Civic shopping area, including the Bus Interchange and Civic night clubs, have been confined to the following periods:

.. /3

1 January- 29 March- 29 March
30 June 90 30 June 89 30 June 90

a) Assaults 41 23 22
b) Theft 103 84 57
*c) Offensive
Behaviour 66 58 40
*it) Drunkenness
Offences 190 149 11$

*AFP General Instruction 7 provides that criminal offence and modus operandi reports are not required for street offences, such as drunkenness and offensive behaviour, within the ACT. This, in effect, means there is no comprehensive statistical reporting of these offences. The figures provided at (c) and (d) have been extracted from a manual check of arrests and detentions for these periods and should be considered approximate.

4. The number of general patrol cars varies between the three districts depending on the priorities determined by both officers in charge (Crime and Patrol), specific campaigns such as random breath testing, and the decision to target specific trouble locations or times.

Dedicated patrol vehicles respond to all types of incidents that are dispatched by the communications room and also attend/investigate incidents they encounter in their daily duties.

I have been informed that during the hours of Sam to 4pm, Monday to Sunday, an average of eleven patrol vehicles are available to respond anywhere in Canberra; between the hours of 3-ilpm an average of ten; and between llpm7am an average of eleven. These patrols are supplemented by, inter olio, criminal investigation squad, dedicated traffic patrol and supervisory sergeant vehicles when required.

5. As I mentioned in my answer to part (2), the Tuggeranong and Woden Valley patrol areas were amalgamated following regionalization and became known as South District.

I have been informed that during the hours of Sam-4pm, 3pm-Ilpm and llpm-7am, Monday to Sunday, there are four patrol vehicles available to respond anywhere in the South District. These patrols are also supplemented by, inter olio, criminal investigation squad, dedicated traffic patrol and supervisory sergeant vehicles when required.

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MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

Question No 286

Business Receiverships

MS FOLLETT - Asked the Chief Minister -

(1) How many businesses have gene into rece-i-,ershi: since .a- 1989 .-I (a) Ck; (b) Central Canberra; and (c) Belconnen.

(2) How do these figures compare with the same period in each of the last five years.

MR KAINE - The answer to the members cuestion is as follows:

(1) & (2) Receivership is a process which relates only to incorporated companies as distinguished from sole traders and partnerships and other unincorporated businesses, which go bankrupt.

The Corporate Affairs Commission of the A.C.T. is an agency of the Commonwealth Government. It compiles statistics relating to companies incorporated in the A.C.T. that go into receivership.

The number of companies incorporated in the A.C.T. that have gone into receivership during the past five financial years is as follows:

1985/86 6
1986/87 7
1987/88 11
1988/89 28
1989/90 72

It should be noted however, that these figures are distorted by a number of factors and are not an accurate reflection of receivership amongst ACT operating companies for the following reasons.

The figures include a number of companies incorporated in the A.C.T. that do not actually operate a business in the A.C.T. The A.C.T. Corporate Affairs Commission report that it is common for interstate companies to incorporate in the A.C.T., regardless of whether they actually operate a business in the Territory or not. It should also be noted that a number of companies cnerating in the A.C.T. are incorporated interstate and are excluded from the above figures.

These figures are also distorted by the fact--that during 1989/90, a single large national enterprise, comprising approximately 40 companies went into receivership resulting in a large increase in the number of recorded receiverships.

Without an extensive and costly search of Corporate Affairs files, it is not possible to obtain statistics relating to receivership by location within the A.C.T.

5354

MINISTER FOR THE AUSTRALIAN CAPITAL TEERQITCRY
LEGISLATIVE ASSEMBLY QUESTION

New Businesses

Question No 287

MS FOLLETT - Asked the Chief Minister-upon notice on 20 November 1990:

(1) How many new businesses have commenced in the ACT since December 1989-.

(2) What is the employment capacity of those businesses.

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

(1) Information relating to the number of new. businesses is not readily available.

Such information could only be obtained by interrogating t.^.e Australian Bureau of Statistics Integrated Register, for the period from December 1989, at a cost of approximately $8000. However, it should be noted that the ABM are currently undertaking a register review and the data is not 100 per cent accurate.

An alternative source is the ACT Business List, held within the ACT Government Service. This list shows that as at 1 November 1989 there were a total of 12360 establishments operating in the ACT. Information pertaining to 1 November 1990 will be available in June 1991, allowing a comparison of business activity during the period in question.

(2) Employment capacity is something for which there is no data, however there is information available relating to employment growth. Employment growth in the ACT has been strong despite the generally unfavourable economic conditions.

In 1989/90 employment grew in the ACT by 3700 jobs (2.6%) compared to a forecast of 2.0%. , This is higher than the national growth of 2.2%. In the first quarter of 1990/91 (September 1990) employment grew by a further 1600. ACT employment is forecast to grow moderately in 1990/91 as economic conditions in Australia and the ACT are expected to gradually improve.

Employment in the private sector continues to increase faster than in the public sector. In the period June 1983 to March 1990 the percentage of the ACT workforce employed in the private sector increased from 41% to 51.8%.

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MINISTER FOR FINANCE FOR THE AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY QUESTION

Question No. 290

Liquor Licence Fees

MS FOLLETT - Asked the Treasurer upon notice on 20 November 1990:

(1) what is the estimated one-off gain to revenue year of quarterly liquor licence payments.

(2) What is the estimated interest benefit to the Territory in subsequent years.

MR DUBY - As this matter falls within my portfolio, the Treasurer has referred this matter to me for response.The answer to the members question is as follows:

(1) The Government acted last September to change collection arrangements for liquor licence fees to overcome substantial bad debt problems. The Government has new modified these arrangements to ease the move to the new scheme.

Licensees will now be given three years to make payments in respect of their 1990-91 fees. In addition, the quarterly licence fee in respect-of "off licence" establishments will be reduced from 10$ to 8% of purchases.

With these arrangements in place, the estimate of revenue from liquor licence fees in the first year of the quarterly scheme (1991-92) has increased from $10.Om under the current arrangements to $10.4m, an increase of approximately $400,000.

In 1992-93 a further net increase of $1.6m is expected as a result of the new arrangements, with payments towards the 1990-91 fees being partially offset by reduced ongoing quarterly payments. A further net $1.5m is. expected in 1993-94.

(2) In addition to the one-off effects outlined above, the effect of the new arrangements is that payments will be received 28 days after the end of each quarter rather than in two six-monthly sums in November and May. The interest benefit resulting from these changed arrangements is estimated to be approx $250,000 per annum at interest rates currently applying.

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MINISTER FOR HEALTH, EDUCATION AND THE ARTS
LEGISLATIVE ASSEMBLY QUESTION

QUESTION ON NOTICE NO. 293

School Closures - Weetangera Primary School .

MR WOOD - asked Minister for Health, Education and the Arts on notice on 20 November 1990:

With regard to your statement in the Assembly on 12 September 1990 -

(1) Is it not true that the revised rationale issued by the Minister for Health, Education and the Arts asserted that the Weetangera and Hawker schools were exactly the same size in terms of gross floor area.

(2) Is it not also true that the office of the Minister for Health, Education and the Arts has now written to the Weetangera community admitting that the information given to the Minister about the relative sizes of the two schools was in fact incorrect and that the Weetangera school has a larger gross floor area than the Hawker school.

(3) What measures has the Minister taken to ensure that any subsequent information supplied to him by his Department is any more accurate than the first lot of information it provided.

(4) Does the Chief Minister persist in his claim that the Government had accurate and adequate information on which to base its decision about closing the Weetangera school.

(5) What action does the Chief Minister propose to take to assure the Assembly that the basic factual information on which the decision to close other schools is less inaccurate than the information relating to Weetangera has been demonstrated to be.

MR HUMPHRIES - the answer to Mr Woods question is:

(1) The revised rationale issued by the Minister for Health, Education and the Arts indicated that the gross floor areas were the same. The figures quoted however were inconsistent in how the plans were measured and what was included.-

The Hawker figure included the medical/dental clinic for example, but that for Weetangera did not.

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(2) The Office of the Minister for Health, Education and the Arts did write to the Weetangera community conveying the correct figures. Both schools have the same agreed enrolment capacity of 415.

(3) A technical error was made when information was provided concerning the size of the two schools. This error was subsequently corrected when the plans were remeasured.

(4) The error was in measurement of the floor area of the school from the architectural drawings. It was not material to the Governments decisions, and was corrected when check measurements were made. There is no evidence to suggest other errors were made.

(5) The Government is confident that its decisions were made on the basis of accurate and appropriate information. It does not propose further action on this matter.

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CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY

Question Number 306

Planning and Land Use Legislation

MR CONNOLLY - asked the Chief Minister uncn .notice on 11 December 1990:

(1) Is the ACT Gcvernment retaining the services of a Sydney sol-4citor to draft t.he land management and planning legislative package.

(2) Who is the solicitor and from what firm.

(3) What has been the cost to date for these services.

(4) When is it anticipated that the services will be completed.

MR KAINE - the answer to the members question.is as follows:

(1) No. The draft planning and land use legislation has been drafted by the ACT Legislative Counsel.

(2) N/A

(3) N/A

(4) N/A

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MINISTER FOR HEALTH, EDUCATION AND THE ARTS

LEGISLATIVE ASSEMBLY QUESTION

QUESTION TAKEN ON NOTICE ON 16 OCTOBER 19-9D -

School Closures - Inquiry

MR WOOD - asked the Minister for Health, Education and the Arts:

(1) Is Mr Hudson being paid $10 000 for his inquiry into aspects of school closures?

(2) Is he required to provide resources other than himself in return for that payment?

MR HUMPHRIES - the answer to Mr Woods question is:

(1) Mr Hudson has been paid a fee of $18 000.

(2) No.

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MINISTER FOR HEALTH, EDUCATION AND THE ARTS

LEGISLATIVE ASSEMBLY QUESTION

QUESTION TAKEN ON NOTICE ON 25 OCTOBER 1990

Higher School Certificate Examinations - Canberra Grammar School Students

MRS GRASSBY - asked the.Minister for Health, Education and the Arts:

Will the Government be subsidising the students from The Boys Grammar School to sit The New-South Wales School Certificate?

MR HUMPHRIES - the answer to Mrs Grassbys question is:

The Canberra Grammar School will receive a grant of that cost equivalent of the per capita expense of the ACT Year 12 Certificate for the 1990 school year.

The cost of the ACT Year 12 Certificate was calculated in May of this year to be $150.00 per student and it is this cost that will be applied to the students of the Canberra Grammar School. The total cost is estimated to be $21 000.00 for the 1990 school year.

The possibility of this subsidy being made was anticipated and allocation made to the Non-Government Education budget. The school may now make annual application for this subsidy and it will be paid on the most recent per capita costing for the ACT Year 12 Certificate.

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APPENDIX 1: (Incorporated in Hansard on 11 December 1990 at gage 4928)

MINISTERIAL STATEMENT ON

THE REPORT ENTITLED

"ILLUSIONS AND REALITIES : RESPONSIBILITY FOR CHILDRENS

PROTECTION AND CARE IN THE A.C.T."

To be delivered by:

Bernard Collaery, MLA
Minister for Housing and
Community Services

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MINISTERIAL STATEMENT

CALLAGHAN REPORT: ILLUSIONS AND REALITIES: RESPONSIBILITY FOR CHILDRENS PROTECTION AND CARE IN THE A.C.T

I TAKE THIS OPPORTUNITY TO MAKE A STATEMENT ON THE REPORT TITLED ILLUSIONS AND REALITIES: RESPONSIBILITY FOR CHILDRENS PROTECTION AND CARE IN THE A.C.T.

THIS REPORT HAS BEEN THE OUTCOME OF A THOROUGH EXAMINATION OF SUBSTITUTE CARE SERVICES FOR ADOLESCENTS AND CHILDREN AT RISK CONDUCTED BY SYDNEY BASED CONSULTANTS BRUCE CALLAGHAN AND ASSOCIATES. IT WAS COMMISSIONED IN NOVEMBER 1989 BY COMMUNITY WELFARE BRANCH WHICH WANTED AN INDEPENDENT REVIEW OF THE EFFECTIVENESS OF SERVICE DELIVERY BY BOTH BRANCH AND NON GOVERNMENT AGENCIES DELIVERING SUBSTITUTE CARE PROGRAMS. DUE TO THE DIFFICULTY IN SEPARATING OUT SUBSTITUTE CARE SERVICES FROM OTHER AREAS, THE CONSULTANTS TOOK A BROAD VIEW OF THEIR TERMS OF REFERENCE AND THIS IS REFLECTED IN THE BREADTH AND SUBSTANCE OF THE REPORTS RECOMMENDATIONS.

AT THE TIME OF THE REPORTS RELEASE ON 20 JUNE 1990, I STATED THAT THE RECOMMENDATIONS WOULD BE THE BASIS FOR CONSULTATION WITH STAFF, NON-GOVERNMENT AGENCIES AND UNION GROUPS.

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3 HOWEVER, BECAUSE OF THE REPORTS WIDE-RANGING AND SIGNIFICANT RECOMMENDATIONS, COVERING ISSUES AFFECTING THE CHILDREN, YOUNG PEC AND FAMILIES OF THE A.C.T, A MUCH WIDER CONSULTATIVE PROCESS WAS NEEDED. I THEREFORE CALLED FOR COMMUNITY COMMENT ON THE REPORT TO HELP ME AND MY DEPARTMENT IN ADDRESSING THOSE ISSUES OF MOST CONCERN. I AM DETERMINED THAT THE BEST PO SIDLE DECISIONS WILL BE MADE AND THAT CHANGES ARE NOT I WITHOUT CAREFULLY CONSIDERING THE VIEWS OF THE COMMUNITY. CHILDREN ARE OUR FUTURE AND THEIR PROTECTION, AND THE VIABILITY OF THEIR FAMILIES, ARE OF UTMOST CONCERN TO THIS GOVERNMNT AND I CAN SAFELY SAY, TO THIS ASSEMBLY.

THE REPORTS RECOMMENDATIONS COVER SUCH ISSUES AS:

BASIC PRINCIPLES OF SUBSTITUTE CARE, IN PARTICULAR THE CONCEPT OF PERMANENCY PLANNING, WHICH, WHILE RECOGNISING THE VITAL ROLE THAT THE FAMILY PLAYS IN THE CHILDS DEVELOPMENT, FOCUSES ON THE NEED FOR STABILITY IN A CHILDS LIFE. I WILL SPEAK MORE OF THIS CONCEPT LATER AS IT HAS FAR REACHING IMPLICATIONS.

THE DIRECTION OF A UNIFIED SUBSTITUTE CARE SYSTEM IN THE A.C.T; PARTICULARLY THE NEED FOR A WIDE RANGE OF OPTIONS TO MEET THE VARYING NEEDS OF CHILDREN.

THE DEVELOPMENT OF FAMILY SUPPORT SERVICES

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THE RELATIONSHIP BETWEEN THE NON-GOVERNMENT AND GOVERNMENT SECTORS IN SERVICE DELIVERY, INCLUDING THE DEVELOPMENT OF STANDARDS AND ACCREDITATION OF AGENCIES THE ROLE OF THE YOUTH ADVOCATE, THE CHILDRENS SERVICES COUNCIL AND ITS STANDING COMMITTEE.

IT IS CLEAR THAT THESE ISSUES ARE IMPORTANT AND THAT MANY PEOPLE HAVE VIEWS THEY WISH TO EXPRESS.

THE CONSULTATION PROCESS I HAVE MENTIONED IS WELL UNDERWAY. THE FIRST STAGE HAS BEEN COMPLETED. NEWSPAPER ADVERTISEMENTS IN EARLY JULY SOUGHT INITIAL COMMENTS FROM THE A.C.T. COMMUNITY. I HAVE BEEN HEARTENED BY THE QUALITY AND DEPTH OF MANY OF THE RESPONSES RECEIVED AND CONSIDER THIS AS AN INDICATION THAT BOTH THE GOVERNMENT SECTOR AND THE COMMUNITY HAVE MUCH TO CONTRIBUTE TO THE DECISION MAKING PROCESS.

MY DEPARTMENT IS CURRENTLY CONSOLIDATING THE SUBMISSIONS WE HAVE RECEIVED FROM A WIDE RANGE OF COMMUNITY AGENCIES AND INDIVIDUALS. THE RESPONSES INDICATE CONSENSUS ON SOME RECOMMENDATIONS, AND THE NEED FOR FURTHER DEBATE ON OTHERS. SEVERAL CENTRAL RECOMMENDATIONS COINCIDE WITH ACTIONS ALREADY BEING TAKEN BY MY DEPARTMENT TO IMPROVE THE DELIVERY OF CHILD WELFARE SERVICES AND THESE I FULLY SUPPORT.

5 ACTION ALREADY TAKEN WAS FORESHADOWER IN A POLICY PAPER ON FAMILY SUPPORT AND SUBSTITUTE CARE SERVICES IN THE A.C.T WHICH WAS RELEASED BY MY OFFICE IN JANUARY OF THIS YEAR. THIS PAPER FO=SzSED ON THE NEED FOR A RANGE OF OPTIONS TO MEET THE NEEDS OF CHILDREN AND YOUNG PEOPLE IN THE A.C.T AND A NUMBER OF INTER-ZAL BRANCH INITIATIVES TO ENSURE A HIGH QUALITY OF SERVICE DELIVERY.

THE NEW POLICY DIRECTION OUTLINED IN THAT PAPER RECOGNISED THAT FAMILIES ARE GENERALLY THE BEST MEANS OF PROVIDING CARE, PROTECTION AND SUPPORT FOR CHILDREN. IT ALSO RECCG1111SED THAT PARE-:TS HAVE AN OBLIGATION AND PRIMARY RESPONSIBILITY FOR THE CARE OF THEIR CHILDREN, AND HAVE THE RIGHT TO PROVIDE THIS CARE.

WORK WITH CHILDREN AND FAMILIES IS NOW FOCUSSING ON FAMILY SUPPORT. THIS MIRRORS THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD WHICH CONSIDERS THAT THE FAMILY, AS THE FUNDAMENTAL GROUP OF SOCIETY AND THE NATURAL ENVIRONMENT FOR THE GROWTH AND WELL-BEING OF CHILDREN, SHOULD BE AFFORDED THE NECESSARY ASSISTANCE AND PROTECTION SO THAT IT CAN ASSUME ITS RESPONSIBILITY WITHIN THE COMMUNITY.

WHERE IT IS CONSIDERED NECESSARY TO REMOVE A CHILD FROM ITS PARENTS, THE EMPHASIS WILL BE TO ENSURE THAT CONTACT BETWEEN THE CHILD, ITS FAMILY, FRIENDS AND SCHOOL CONTINUES AND THAT THE FA14ILY RETAINS THE PRIMARY RESPONSIBILITY FOR THE CHILD.

6 WITHIN THIS POLICY CONTEXT, A MUCH BROADER RANGE OF SERVICES ARE 117 THE PROCESS OF IMPLEMENTATION SO THAT SERVICES REQUIRED BY CHILDREN AND THEIR FAMILIES CAN BE MATCHED WITH THEIR ASSESSED NEEDS.

ALREADY, THE NON-GOVERNMENT SECTOR HAS ESTABLISHED FAMILY SUPPORT PROGRAMS WHICH WILL PROVIDE ASSISTANCE AND SUPPORT FOR FAI 171ES IN CARRYING OUT THEIR RESPONSIBILITIES.

IF THIS TYPE OF ASSISTANCE IS NOT POSSIBLE OR DESIRABLE, THE E14PHASIS WILL BE ON PROMPT DECISION MAKING AND ON GETTING A CHILD INTO A STABLE PLACEMENT WHICH OFFERS NOT ONLY THE MINIMUM LEVEL OF INTRUSION NECESSARY TO MEET THE NEEDS OF THE CHILD BUT AN ENVIRONMENT WHICH WILL PROVIDE THE MOST LIKELIHOOD OF STABILITY WITHIN THE CONTEXT OF A FAMILY ENVIRONMENT.

IT IS MY HOPE THAT BY EMPHASISING THE IMPORTANCE OF FAMILY SUPPORT OR PREVENTATIVE SERVICES, MANY CHILDREN WILL; NEVER HAVE TO ENTER CARE BUT, IF THEY DO, THAT CARE WILL BE THE CLOSEST ALTERNATIVE TO FAMILY LIFE POSSIBLE.

OVER THE PAST EIGHT MONTHS MY DEPARTMENT HAS BEEN NEGOTIATING WITH THE NON-GOVERNMENT SECTOR IN RE-STRUCTURING THEIR EXISTING SERVICES TO TAKE ACCOUNT OF THESE NEW POLICY DIRECTIONS IN FAMILY SUPPORT AND FAMILY-TYPE CARE.

7 ONE OF THE BASIC PREMISES -OF-THESE CHANGES, AND ONE THAT IS HIGHLIGHTED IN THE CALLAGHAN REPORT, IS THAT WELFARE AUTHORITIES WILL WORK IN CO-OPERATION WITH THE NON-GOVERNt•7ENT SECTOR TO PROVIDE A RANGE OF SERVICES TO CHILDREN AND FAMILIES AND THAT THESE SERVICES WILL BE NEGOTIATED THROUGH AGREEMENTS WHICH WILL CLEARLY DEFINE RESPONSIBILITY FOR CARE, ACCOUNTABILITY AND REQUIRED STANDARDS. THE DEVELOPMENT OF THESE CONTRACTS WILL PROCEED QUICKLY. ALREADY MOVES HAVE BEEN MADE TO IMPLEMENT FORMULA FUNDING AND TO PROVIDE FUNDS ON A Program BASIS WITH DEFINED ENTRANCE AND AGE CRITERIA BEING DEVELOPED FOR EACH PROGRAM.

ANOTHER INITIATIVE ALREADY TAKEN PLACE THAT I AM PLEASED TO ENDORSE IS THE ESTABLISHMENT OF A SUBSTITUTE CARE POLICY AND CONSISTENT PROCEDURES ACROSS ALL AGENCIES. THESE PROCEDURES MAY NEED SOME ADJUSTMENT TO FACILITATE OTHER PROPOSALS THAT COMMUNITY WELFARE IS ADDRESSING BUT THE GROUND WORK HAS BEEN FIRMLY ESTABLISHED.

ALL AGENCIES, WHETHER GOVERNMENT OR NON-GOVERNMENT, WILL ALSO BE REQUIRED TO OPERATE ACCORDING TO CONSISTENT AND CLEARLY DEFINED POLICIES AND STANDARD PROCEDURES. THESE WILL BE DEVELOPED IN CONSULTATION WITH THE NON-GOVERNMENT SECTOR.

A CO-ORDINATING UNIT HAS BEEN ESTABLISHED WITHIN THE WELFARE G BRANCH. THE ROLE OF THIS UNIT IS TO MONITOR DOCUMENTATION ON

CASES AS WELL AS ALL PLACEMENTS OF CHILDREN IN SUEST.ITUTE CAS; AND FAMILY SUPPORT PROGRAMS. THESE MONITORING SYSTEMS WILL HELP TO IDENTIFY GAPS IN SERVICES AND ALSO MAINTAIN A CENTRALISED INFORMATION SYSTEM ON WELFARE CLIENTS FOR CA MANAGEMENT, RESEARCH AND POLICY ANALYSIS. THIS UNIT, ESTABLISHED SOME MONTHS AGO, IS ANOTHER INITIATIVE OF MY DEPARTMENT, THE NEED FOR WHICH IS REFLECTED IN THE CALLAGri,%N REPORT.

WITH REGARD TO THE CALLAGHAN REPORT, THE CONSULTATION PROCESS HAS SHOWN THERE IS WIDESPREAD AGREEMENT THAT THE CHILDRENS SERVICES COUNCIL MUST CHANGE, BOTH IN PURPOSE AND STRUCTURE. AS THERE IS GENERAL CONSENSUS ON THIS ISSUE, I PROPOSE TO PROCEED WITH CHANGES AS SOON AS POSSIBLE.
BRIEFLY, MEMBERSHIP OF THE COUNCIL WILL BE EXTENDED TO PROVIDE A WIDER REPRESENTATION FROM THE COMMUNITY. I AM ALSO CONCERNED TO BUILD LINKAGES BETWEEN THE CHILDRENS SERVICES COUNCIL AND THE NEW MINISTERIAL YOUTH ADVISORY COUNCIL. BOTH THESE. FORUMS WILL HAVE CROSS MEMBERSHIP TO ENSURE THAT YOUTH ISSUES RECEIVE ADEQUATE ATTENTION. THE COUNCIL WILL THEN OPERATE AS AN ADVISORY BODY IN RESPECT OF CHILDREN TO 18 YEAR IN LINE WITH THE AREA OF STATUTORY RESPONSIBILITY UNDER THE CHILDRENS SERVICES ACT.

9 THE COUNCIL WILL TAKE A MUCH MORE PRO-ACTIVE ROLE IN ADVISING ME ON A WHOLE RANGE OF ISSUES RELATING TO THE WELFARE OF CHILDREN AND YOUNG PEOPLE. THESE FUNCTIONS ARE CLOSE TO THE ORIGINAL MODEL PROPOSED BY THE LAW REFORM COMMISSION REPORT OF 1981. THESE CHANGES ARE DIRECTED TOWARDS MAKING THE COUNCIL MORE REPRESENTATIVE AND BETTER ABLE TO ADVISE ME ON THE DELIVERY OF CHILDRENS WELFARE SERVICES IN THE A.C.T.

THE REPORT PROPOSED A NUMBER OF CHANGES ON WHICH THERE HAS NOT BEEN ANY CONSENSUS. THESE RELATE TO THE ROLE OF THE YOUTH ADVOCATE, THE STANDING COMMITTEE OF THE CHILDRENS SERVICES COUNCIL AND THE COURT. THESE ARE COMPLEX ISSUES REQUIRING FUNDAMENTAL CHANGES TO THE CHILDRENS SERVICES ACT.

BECAUSE OF THE DIVERGENCE OF VIEWS AND THE COMPLEXITY OF THESE ISSUES, I DO NOT PROPOSE TO PROCEED IN THESE AREAS UNTIL A NUMBER OF DISCUSSION PAPERS ARE PREPARED AND MADE AVAILABLE FOR PUBLIC COMMENT OVER THE NEXT FEW MONTHS.

A DISCUSSION PAPER WILL ALSO BE PREPARED ON THE CONCEPT OF PERMANENCY PLANNING. WHILE THERE IS WIDESPREAD AGREEMENT ON THIS CONCEPT I NEED TO BE SURE THAT THE COMMUNITY FULLY UNDERSTANDS THE IMPLICATION INVOLVED.

PERMANENCY PLANNING IS BASED ON THE VIEW THAT EVERY CHILD IS ENTITLED T0, AND NEEDS, A STABLE HOME. IT FOCUSES ON THE NEED FOR PROMPT DECISIVE ACTION TO MAINTAIN CHILDREN IN THEIR OWN HOMES OR PLACE THEM PERMANENTLY WITH OTHER FAMILIES. IT ALSO INVOLVES ACHIEVING, FOR A CHILD, COMMITMENT AND CONTINUITY IN RELATIONSHIPS AND A DEFINITIVE LEGAL AND SOCIAL STATUS.

THERE ARE IMPLICATIONS OF THIS CONCEPT NEEDING CAREFUL AND DETAILED DISCUSSIONS. FOR EXAMPLE, LEGAL PROCESSES THAT SANCTION PERMANENCY PLANNING ARE REQUIRED AND NEED TO BE ACCEPTED EVEN WHEN PARENTAL RIGHTS HAVE TO BE TERMINATED IN THE INTERESTS OF A CHILD. IN A PERMANENCY PLANNING MODEL, SUBSTITUTE CARE BECOMES A TEMPORARY, TIME LIMITED PROGRAM WITH INTENSIVE FAMILY SUPPORT SERVICES CONSTITUTING THE MOST SIGNIFICANT PART OF PROGRAMS. THERE ARE CONSIDERABLE IMPLICATIONS HERE FOR PLACEMENT OPTIONS AND FOR AGENCIES CURRENTLY OPERATING PROGRAMS AND FOR STAFF EXPERTISE. THE CURRENT LEGISLATION ALLOWS SOME SCOPE FOR THE APPLICATION OF NOTIONS OF PERMANENCY PLANNING IN INDIVIDUAL CASES. HOWEVER, THE ACT NEEDS TO BE FUNDAMENTALLY CHANGED IF PERMANENCY PLANNING AS A CONCEPT IS TO BE MORE GENERALLY APPLIED.

AT THIS STAGE I WOULD LIKE TO EMPHASISE MY SUPPORT FOR THOSE RECOMMENDATIONS THAT AIM AT DEVELOPING A SINGLE CO-ORDINATED WELFARE SYSTEM IN THE A.C.T AND MY CONCERN THAT PROCESSES ARE BEGUN TO IMPLEMENT THESE RECOMMENDATIONS. MANY INITIATIVES ALREADY TAKEN HAVE BEGUN THIS PROCESS BUT NOW WE NEED TO MOVE TOWARDS THIS GOAL WITH A FIRM COMMITMENT FROM ALL AGENCIES FOR

11 A UNITED POLICY DIRECTION AND FOR CONSISTENT SERVICE STANDARDS AND PROCEDURES FOR INTAKE, ASSESSMENT, CASE PLANNING AND CASE REVIEW APPLYING IN ALL AGENCIES. ACCREDITATION FOR ALL AGENCIES WILL BE INTRODUCED AND ACCREDITATION, CONDUCTED THROUGH AN ANNUAL REVIEW, WILL BE CONDITIONAL ON MEETING THESE STANDARDS.

ONE OF THE MORE CONTENTIOUS ISSUES INVOLVED IN HAVING A UNIFIED SYSTEM IS THE DEVELOPMENT OF SOME FORM OF CENTRAL NOTIFICATION AND INFORMATION SYSTEM AND THE CLARIFICATION OF CASE RESPONSIBILITY AND CO-ORDINATION. THERE ARE COMPLEX ISSUES HERE AND CONSIDERABLE DIVERGENCE OF VIEWS. PRIVACY CONSIDERATIONS AND THE NEED FOR SOME FAMILY SUPPORT SERVICES TO BE ACCESSED WITHOUT THE NEED TO ENTER THE FORMAL WELT ARV. SYSTEM NEED TO BE TAKEN INTO ACCOUNT BUT I AM CONVINCED THESE DIFFICULTIES MUST BE RESOLVED IN THE INTERESTS OF CHILDREN IN THE A.C.T.

FOR FAR TOO LONG THE A.C.T HAS BEEN DEFICIENT IN ITS ABILITY TO COLLECT AND RESEARCH DATA AND TO BE ABLE TO KEEP TRACK OF AND SAFEGUARD YOUNG CLIENTS WHO ENTER THE WELFARE SYSTEM. I REGARD THIS CENTRAL ACCOUNTABILITY AS CRUCIAL AND THE BRANCH WILL RETAIN THIS RESPONSIBILITY AS WELL AS THAT FOR SERVICE PLANNING, CO-ORDINATION AND DEVELOPMENT OF STANDARDS.

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WHILE THE BRANCH WILL RETAIN THIS RESPONSIBILITY, IT WILL WORK CLOSELY WITH THE NON-GOVERNMENT SECTOR. I STRONGLY ENDORSE THE SUBSTITUTE CARE SERVICES COMMITTEE, WHICH HAS ALREADY BEEN ESTABLISHED, AS THE CONSULTATIVE FORUM TO ASSIST AND ADVISE THE DIRECTOR OF WELFARE IN THE IMPLEMENTATION OF RECOMMENDATIONS PARTICULARLY THOSE RELATING TO THE FURTHER DEVELOPMENT OF CONSISTENT POLICIES AND STANDARDS, AN ACCREDITATION PROCESS AND TO WORK TOWARDS RESOLVING DIFFICULTIES PREVENTING ESTABLISHMENT OF A SINGLE SYSTEM.

THIS COMMITTEE HAS BROAD REPRESENTATION FROM THE GOVERNMENT AND NON-GOVERNMENT SECTORS INVOLVED IN SERVICE DELIVERY TO CHILDREN AND FAMILIES. I ALSO PROPOSE THAT THIS CC11,U-11TTEE WILL EXAMINE THE WHOLE RANGE OF SERVICES FROM FAMILY SUPPORT /RESPITE CARE TO ADOPTION AND ASSIST IN PLANNING SERVICES TO ENSURE THE A.C.T HAS A FULL CONTINUUM OF SUBSTITUTE CARE SERVICES TO MEET ALL NEEDS. PART OF THIS TASK WILL BE TO REVIEW THE CURRENT INCONSISTENCIES IN FOSTER CARE RATES.

A NUMBER OF RECOMMENDATIONS FOCUS ON A NEED FOR CLOSER LINKS BETWEEN THE WELFARE SYSTEMS, EDUCATION, CHILD CARE AND THE SUPPORTED ACCOMMODATION ASSISTANCE PROGRAM. THESE ARE URGENTLY NEEDED AND MY DEPARTMENT WILL BE MOVING TOWARDS ESTABLISHING REAL AND EFFECTIVE LINKS IN THE NEAR FUTURE.
A RANGE OF RECOMMENDATIONS RELATE TO INTERNAL BRANCH MANAGEMENT AND SERVICE DELIVERY. MANY OF THESE HAVE BEEN IMPLEMENTED, IMPLEMENTED, OTHERS WILL BE ADDRESSED IN AN INTERNAL

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DISCUSSION PAPER WHICH WILL BE USED AS THE BASIS FOR CONSULTATION WITH STAFF AND UNIONS.

AS I HAVE INDICATED, SOME OF THE REPORTS RECOMMENDATIONS CALL FOR AMENDMENTS TO THE CHILDRENS SERVICES ACT. THE CHILDRENS SERVICES COUNCIL HAS ALREADY IDENTIFIED A NUMBER OF OPERATIONAL DIFFICULTIES. THE GOVERNMENT HAS APPROVED THE DRAFTING OF AMENDMENTS AND THEY WILL BE INTRODUCED IN THE NEXT SITTING OF THE ASSEMBLY. THE DISCUSSION PAPERS WHICH WILL BE SHORTLY RELEASED WILL HELP TO IDENTIFY WHERE MORE FUNDAMENTAL CHANGES NEED TO BE MADE. I WILL BE IN A BETTER POSITION TO ADVISE THIS ASSEMBLY OF ANY LEGISLATIVE CHANGE AFTER DISCUSSrON PAPERS ARE CONSIDERED AND COMMENTED UPON BY THE COMMUNITY. I HOPE TO BE ABLE TO DO SO EARLY IN THE NEW YEAR.

I QUOTE FROM THE CALLAGHAN REPORTS CONCLUDING SUMMARY:
"THE STUDY OF SUBSTITUTE CARE TOOK US INTO THE HEART OF A WELFARE PROGRAM WHICH HAD SET HIGH IDEALS FOR ITSELF, BUT THESE IDEALS WERE NOT BEING MET. THERE WAS ALMOST UNrVERSAL AGREEMENT THAT THE SYSTEM WAS NOT WORKING WELL AND AN ABIDING SENSE OF FRUSTRATION THAT LITTLE COULD BE DONE ABOUT IT. IN OUR VIEW THERE IS MUCH THAT CAN BE DONE AND WE BELIEVE THAT THE WELFARE PROGRAM COULD BE A MODEL FOR WELFARE PRIORITIES IN AUSTRALIA"

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I AM CONFIDENT THAT THIS GOAL IS WORTHY OF PURSUIT AND I HOPE THAT A BI-PARTISAN COMMITMENT TO IT CAN BE DEVELOPED.

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