DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

14 February 1991

Thursday, 14 February 1991

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

WATER SUPPLY (CHEMICAL TREATMENT) (AMENDMENT) BILL 1991

MR HUMPHRIES (Minister for Health, Education and the Arts) (10.31): Mr Speaker, I present the Water Supply (Chemical Treatment) (Amendment) Bill 1990. I move:

That this Bill be agreed to in principle.

Last year in the Assembly the Standing Committee on Social Policy sought to have the reporting date on the fluoride inquiry extended, to allow it to take into account the view of Australia's foremost medical research body, the National Health and Medical Research Council. The council at that stage was awaiting an evaluation by the United States national toxicology program of a recent study on chronic toxicity and carcinogenicity of sodium fluoride. The USA study is still unavailable, and the council has issued an interim report which has been considered by the Standing Committee on Social Policy. The Assembly quite properly agreed to this request, and the reporting date was extended from 31 May 1990 to 29 November 1990. On 29 November 1990 a further extension was granted until the Assembly's first sitting day in 1991.

Over the past two years the issue of fluoridation of the ACT water supply has been hotly debated by the Assembly, and the decision to remove fluoride without reasonable consultation and proper investigation created an adverse public response. For this reason the Chief Minister, who was then the Leader of the Opposition, introduced the Water Supply (Chemical Treatment) (Amendment) Bill, to allow fluoridation to be reintroduced until the matter had been fully investigated by the standing committee and the Assembly had received and responded to the report.

This legislation was passed on 18 October 1989. It acted to suspend part VIIIA of the earlier Electricity and Water Act, which was itself passed on 27 September 1989, to prohibit the addition of fluoride to the water supply. The suspension applied until 28 February 1991. A situation now exists that will result in fluoridation of the water supply ceasing from 28 February 1991, unless this Assembly further amends the legislation passed on 18 October 1989.

The community has already made it clear that it feels strongly about the need for proper consideration of this issue, prior to a final decision. The Standing Committee

on Social Policy tabled its report on this issue on 12 February - two days ago - after some twelve months' work. It would be irresponsible not to maintain fluoride in the water supply until we have had adequate opportunity to consider this significant report.
I therefore present this amendment to the Water Supply (Chemical Treatment) (Amendment) Act which extends the suspension of part VIIIA of the Electricity and Water Act until 31 August 1991. By this date, I would expect that this Assembly would have had the opportunity to fully debate and resolve this issue.

Mr Speaker, I present the explanatory memorandum for the Bill.

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

WEAPONS BILL 1991

MR COLLAERY (Attorney-General) (10.34): Mr Speaker, I present the Weapons Bill 1991. I move:

> That this Bill be agreed to in principle.

The Weapons Bill, Mr Speaker, is the culmination of a comprehensive review of the existing Gun Licence Act 1937. It began a number of years ago, and was hastened by much publicised multiple killings, both in the ACT and elsewhere.

Members will recall that on 22 February 1990 I introduced an exposure Weapons Bill into the Assembly, for the express purpose of promoting community debate on the proposals. A large number of letters and submissions were received in response to the exposure Bill. In addition, a useful and exhaustive consultative process was undertaken with the major gun interest groups such as the Sporting Shooters Association of Australia and the ACT Shooting Association. This led not only to some refinements to the exposure Bill, but also to the closing of some potential loopholes.

Since that time, the report of the National Committee on Violence, *Violence: Directions for Australia,* has moved many commentators to pose fundamental questions about the proper role of gun laws. Coincidentally, a significant proportion of the correspondence I received supporting a ban on pornography also defended the so-called right to bear arms.

Clearly there are divergent views in the community on the issue of firearms control and, among those who favour some form of control, its extent. No doubt some would wish to see in Australia the freedom to bear arms that exists in the United States under the Second Amendment to the United States Constitution. Its effect is to limit the scope for a meaningful reduction in firearms and, as members may be

aware, firearm possession has proliferated, notwithstanding the existence of many laws at Federal, State and city level in the United States which regulate the place and manner of gun use in that country.

In Australia, too, gun ownership has increased. In 1979 it was estimated that one in six Australians owned a gun. A decade later, that figure had increased to one in four. At present here in the ACT, there are about 13,000 licensed gun owners who lawfully possess about 24,000 guns. In addition to these 24,000 guns, there exists an unknown number of illegal firearms. The Australian Federal Police estimate that this could amount to a further 4,500 guns in circulation in the ACT.

Although this indicates that firearm possession in the ACT is below the national average, the Alliance Government considers it essential in the increasingly violent society that our present gun laws, enacted more than half a century ago, be replaced by modern and effective provisions. In some quarters such a move will be objected to. Indeed, there are those in certain extreme groups who advance the view that Australians, like citizens in the United States, have a constitutional right to possess firearms. This is simply not so. There exists no equivalent of the United States entitlements regarding guns. Outside of these minority sentiments, there is little support for a lessening of controls, much less their abandonment. It is open to each of the States and Territories to legislate regarding firearms possession and use in their respective jurisdictions. In fact, each jurisdiction has now introduced new legislation, or amended existing provisions, in response to community reaction to acts of excessive violence involving firearms.

The National Committee on Violence, to which I have previously referred, noted that nearly 700 Australians die each year from gunshot wounds, most of them intentionally self-inflicted. The committee made a significant number of recommendations for action by Federal, State and Territory governments, in an effort to bring about a reduction in these statistics. The Weapons Bill very substantially reflects these recommendations. Only in two main respects is there a divergence from the recommendations. In respect of ammunition, the Bill recognises the current practice of approved shooting clubs to sell ammunition from their premises to members and persons competing in shooting events at the premises. This facility, in our view, negates the need for sporting shooters to possess large quantities of ammunition. The Bill also recognises the activity of ammunition collecting, that in some circumstances persons keep ammunition as a keepsake or memento.

In respect of the recommendation that the licensing of persons be restricted to persons over 18 years of age, the Bill does not provide for an absolute lower age, but provides the Registrar with wide powers to refuse a licence to a person, including refusal based on age. Presently a person under the age of 18 years may be licensed for a long-arm. The Bill enables an under-age person to be licensed only in order to participate in competition shooting events. All the other criteria on which a licence may be granted also have to be met. Further, an under-age person may possess a firearm only while under supervision at a range, or while taking part in a competition. At all other times the firearm must be in the possession of a licensed adult. The Government considers that stringently supervised competitive shooting by young people should be permitted, and I am very impressed by the responsible attitude of the ACT shooting clubs with regard to the use of firearms by minors. I am firmly of the view that an exposure to firearms by young people in a regulated environment is immeasurably preferable to their using guns illegally and without proper training and supervision.

Turning now to the Bill itself, it establishes a system of dual registration. Every person who owns or uses a weapon will have to be licensed, and every weapon he or she owns or uses will have to be registered on that licence. The requirement to register each weapon on a licence will ensure that a person only ever has in his or her possession a weapon of a kind which is required for the reason for which his or her licence was granted. Each applicant for a licence will have to satisfy a number of criteria prior to obtaining a licence. These criteria, especially those requiring the applicant to be a fit and proper person and to establish an approved reason why he or she has need of a weapon, comprise the most fundamental aspects of the Bill. The various approved reasons for requiring a weapon are detailed in clause 5 of the Bill.

In establishing to his or her satisfaction that an applicant for a dangerous weapons licence is fit and proper, the Registrar is obliged to have regard to certain matters specified in clause 24, including whether the applicant has been, within the previous eight years, the subject of a restraining order or a domestic violence protection order. However, in addition, the Registrar may take into account any other relevant factors such as whether the applicant is subject to any mental or emotional instability, or is dependent upon drugs or alcohol, and also whether, because of age or physical fitness, the applicant can safely operate a weapon.

By specifying the approved reasons for which a person may require a weapon, the Bill goes well beyond some State and Territory legislation which leaves this to be determined at the discretion of the licensing officer. Clause 5 also provides for a person who recreationally shoots or hunts only in another State or Territory to have an approved reason for requiring a firearm and thereby to obtain a

licence. Because of the relatively small geographical area of the ACT, and also because most land in the Territory is public land, little scope for hunting and recreational shooting exists. Consequently, many ACT hunters and recreational shooters shoot only outside the Territory. It is essential for such persons to be able to be licensed in the ACT in order to retain possession of their firearms.

A further complicating factor is that some State authorities, notably in New South Wales, will not license these ACT residents for shooting in that State unless they possess an ACT licence. The Bill overcomes this impasse by enabling such persons to be licensed on establishing to the Registrar's satisfaction that they recreationally shoot or hunt in another State or Territory. The Government will ensure that the Registrar, when exercising this discretion, sets a vigorous standard of inquiry, including a requirement for collateral evidence from reputable persons.

Other provisions will require a prospective licensee to satisfactorily complete a course in the safe handling of weapons, or to satisfy the Registrar that he or she has adequate skill or experience in such handling, thereby ensuring that those who do want to own and use a weapon will be sufficiently skilled to avoid any mishap causing injury to themselves or others. The Bill continues the present prohibition on fully automatic weapons and introduces a series of restrictions in respect of semiautomatic weapons.

Non-military-style semiautomatic weapons will have no specific restrictions, and may be possessed and used for participation in sporting shooting competitions and also for recreational shooting and hunting. However, military-style semiautomatic weapons may be used only for sporting shooting competition purposes. With the recent announcement by the Commonwealth Government of a prohibition on the importation of military-style weapons, there will be no further increase in the number of these weapons in circulation.

The Bill categorises weapons as dangerous, restricted or prohibited. Under the provisions of the Bill, licences may be obtained for dangerous and restricted weapons only. However, there are transitional provisions to cater for persons who, at the time of commencement of these provisions, have licences under the existing Gun Licence Act 1937 in respect of weapons, including military-style semiautomatic weapons, to enable them to comply with the new requirements.

The Government considers that we should do our utmost to reduce cupboard weaponry - that is, the possession of firearms by persons who do not have a need for a firearm and do not use their firearm. Accordingly, the Bill provides for amnesties to be declared during which unregistered firearms may be handed in without fear of prosecution.

The Bill makes a large number of changes to the Weapons Bill which I introduced last year. Many of these changes are of a minor or technical nature; however, I draw attention to the removal of the system of permits to acquire weapons which was contained in the 1990 Bill. After careful consideration, the costs and inconvenience associated with giving effect to this duplicative system were found to be unjustifiable. The imposition of a 28-day cooling-off period where a person acquires his or her first firearm, and the need to ensure that a person only acquires a firearm of a kind suitable for the reason for which his or her licence was granted, have been preserved by including appropriate offences in clause 77.

The Bill also extends the duration of licences from one year to two years. Again, this will reduce the cost of administering the Bill. It is not considered that the extension will result in any weakening of controls. Indeed, members may be aware that in certain other jurisdictions licences are issued for an indefinite period in some circumstances.

This Bill is a matter which the Government will keep under review and one on which the Weapons Control Advisory Committee, which I have previously announced will be established by the Government, may wish to make recommendations. The development of the Bill has a lengthy history and has involved the sensitive handling of an emotive subject. I wish to place on record the appreciation of the Government for the assistance of those persons, both within the ACT Government Law Office and in the community, who have contributed to that development.

Mr Speaker, I present the explanatory memorandum for the Bill.

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

WEAPONS (CONSEQUENTIAL AMENDMENTS) BILL 1991

MR COLLAERY (Attorney-General) (10.47): Mr Speaker, I present the Weapons (Consequential Amendments) Bill 1991. I move:

> That this Bill be agreed to in principle.

Mr Speaker, this Bill amends three Acts as a consequence of the Weapons Bill 1991: the Crimes Act 1900 of the State of New South Wales in its application in the Territory; the Domestic Violence Act 1986; and the Magistrates Court Act 1930.

The amendment of the Crimes Act 1900 makes it clear that, when a police officer enters premises pursuant to powers conferred by sections 349A, 349B or 349C of that Act, the

police officer may seize any firearm where this is reasonably believed necessary to prevent the commission or repetition of an offence or of a breach of the peace, or to protect life or property. It is expected that this amendment will reduce the possibility of misuse of firearms in potentially violent situations.

Mr Speaker, the amendments of the Domestic Violence Act 1986 and the Magistrates Court Act 1930 are similar. Those Acts, at sections 14A and 206D respectively, provide for the cancellation or suspension of the gun licence of a person against whom a protection order or restraining order or interim order is made, and for the seizure of the gun or pistol. The amendments ensure that, on the repeal of the Gun Licence Act 1937 and the commencement of the Weapons Bill, terms used in those two sections will reflect the new legislation. Mr Speaker, I present the explanatory memorandum for the Bill.

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

DISCHARGE OF ORDERS OF THE DAY

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

That the following orders of the day, executive business, be discharged -
Venereal Diseases (Amendment) Bill 1990: Agreement in principle - Resumption of debate.
Weapons Bill 1990: Agreement in principle - Resumption of debate.

ROYAL COMMISSIONS BILL 1990

[COGNATE BILLS:

INQUIRIES BILL 1990
ROYAL COMMISSIONS AND INQUIRIES (CONSEQUENTIAL PROVISIONS) BILL 1990]

Debate resumed from 13 December 1990, on motion by **Mr Collaery**:

That this Bill be agreed to in principle.

MR SPEAKER: Before we proceed, I believe that it is the wish of the Assembly to debate orders of the day Nos 1, 2 and 3 cognately. That being the case, when members are debating order of the day No. 1, they may also address their remarks to orders of the day Nos 2 and 3.

MR CONNOLLY (10.50): It is appropriate, of course, to deal with these matters in a cognate debate because the details of the two Bills are very similar. Indeed, that will be the thrust of much of the Opposition's remarks at the detail stage, where we will, in fact, be introducing some amendments of detail but not of substance. In effect, we will be saying that these two Bills are almost identical and that one Bill would do where we presently have two.

It is clearly an essential function of a self-governing body politic that it have a power to conduct inquiries into matters of public interest. That has been established by the High Court. There is no specific power to be found anywhere in the Australian Constitution for the Commonwealth to hold royal commissions. There was an early High Court challenge to the power of the Commonwealth to conduct royal commissions in which the High Court held that it was a necessary function of government and could be found to reside with the Commonwealth although nowhere present expressly in the Constitution of the Commonwealth.

On being established as a self-governing body politic, the ACT was left with the Enquiry Act 1938 as the only basis for the conduct of inquiries. Although it is possible to conduct a fairly wide-ranging inquiry under that Act - the ordinance becoming an Act pursuant to self-government - the Opposition would endorse the Attorney's views that this is an outdated piece of legislation and that it is appropriate to look again and replace it with a modern form of legislation.

The Government has introduced into this Assembly the Royal Commissions Bill, the Inquiries Bill and the consequential Bill to tidy up necessary changes as a result of the passage into law of those two Bills. The Opposition supports the need for a body to conduct inquiries into matters of public importance in the ACT. The Opposition has no difficulty with the form and legal content of the Bills.

The Scrutiny of Bills Committee, of course, had their attention drawn to certain aspects of the legislation which would generally cause it to look askance at the Bill. It is worth noting, of course, that a royal commission or an inquiry may require people to give evidence which could incriminate them. That self-incrimination is a principle in law which parliaments generally shy away from.

However, in the context of a royal commission or inquiry it can clearly be seen to be necessary. There is protection for the individual, in that evidence that is self-incriminatory given in a commission or an inquiry is not admissible in any other criminal proceedings except, of course, in relation to perjury. That is found in clause 24 of the Royal Commissions Bill and clause 19 of the Inquiries Bill.

It is significant that this applies only to ACT prosecutions. There is something of a problem in that self-incriminatory evidence given before an ACT commission or inquiry could perhaps be used in a prosecution in another State. Of course, with the position of the ACT as an island in New South Wales, that may need to be looked at. I know that this is a problem that has arisen before. I think that the Standing Committee of Attorneys-General is trying to address it.

There have been undertakings given in relation to other ACT inquiries that evidence given that may be self-incriminatory will not be tendered in a New South Wales prosecution. In due course that is a matter that probably needs to be addressed by the State and Territory Attorneys and, indeed, the Federal Attorney, with a view to incorporation in legislation.

The Opposition has looked in vain, in the introductory remarks by the Attorney-General, the explanatory memorandum and the Bills, for a rationale for having a Royal Commissions Bill and an Inquiries Bill. We see that that is probably unnecessary. We ask: What is the difference between a royal commission and an inquiry? We find in our researches that there is probably none. The leading authority on the law of royal commissions in Australia is a text by Hallett - a barrister of the Supreme Court of Victoria - published in 1982, entitled *Royal Commissions and Boards of Inquiry: Some Legal and Procedural Aspects.* Hallett is directing his attention principally to Victorian royal commissions. I see that the ACT does possess two copies of this book. The Attorney and I were concerned this morning that there may be only one copy and that I had it, but fortunately we have two copies.

Hallett was writing principally about Victorian law, but his remarks are more broad-ranging. It is interesting that Hallett was writing about Victorian law, because Victoria is somewhat unique in Australia in that it has had, in long practice, both royal commissions and boards of inquiry as alternative methods of conducting these major public inquiries. At page 10 Hallett says:

> Royal Commissions are one of the oldest institutions of government. They have attained an aura of importance in the public mind because they are generally reserved for particularly important inquiries. As will be seen, Boards are very closely related to commissions and there does not appear to be any significant difference between the two. The differences which do exist are in the method of appointment and the statutory provisions which apply once appointed.

The difference in relation to method of appointment is of particular importance, in that a board has often been seen as a statutory creature, although it can be appointed under prerogative, but a royal commission traditionally has been

a non-statutory instrument. A royal commission is called a royal commission because the Sovereign would personally commission a person to conduct an inquiry. At page 16 Hallett says:

> Royal Commissions have a long history, extending back to the Domesday Book of 1086. The Domesday Book was the result of an inquiry appointed by William the Conqueror.

We have this tradition of the Sovereign commissioning an individual to conduct an inquiry and that individual conducting the inquiry with the authority of the Sovereign; hence royal commission. I raised with the Attorney a week ago a query as to the appropriateness of using the term "royal commission" in the ACT because we have a different structure of government from any other place in the Commonwealth of Australia.

We were referring yesterday in the debate on self-government to the question of an administrator, which had been raised by Mr Humphries. On this side we were discussing the possibility of the Minister for Urban Services perhaps assuming that high office of administrator or vice-regal representative at some stage. The point is that in every other State or Territory there is an administrator who represents the Crown, and a royal commission, established by prerogative or statute in any other place in this Commonwealth, follows that traditional method of a commission from the administrator, from the vice-regal representative, to the person charged with the conduct of an inquiry.

That, of course, is very different from the position here where, under the Royal Commissions Bill, it is proposed in clause 5 that the commission will be appointed by the Executive, by instrument in writing published in the *Gazette*. That is a very different form of instrument of appointment from that applying anywhere else in Australia. I queried the Attorney as to the appropriateness of using the term "royal commission" in those circumstances. The Attorney and his Law Office were able to give a very helpful response very quickly.

The advice is that the term "royal commission of inquiry" has come to refer to an ad hoc advisory body appointed by a government and having wide and coercive powers to provide information. That is the Hallett definition, which is broadly accepted. The advice notes that a royal commission of inquiry can be of two different kinds.

I am referring to a Victorian Supreme Court authority, Johns and Waygood Ltd v Utah Australia Ltd in 1963. It is noted that there are the two forms of appointment of royal commission - by statute or by prerogative. There is reference again to old English authority for the view that it is appropriate for a royal commission to be appointed pursuant to statutory authority. The advice goes on to

note that the Australian Capital Territory is established as a body politic under the Crown pursuant to the self-government Act. The advice concludes:

> The Territory is a body politic under the Crown and it is quite appropriate for the Legislative Assembly to enact legislation empowering the Executive to, in the name of the Crown, appoint a Royal Commission.

I have no doubt that that legal advice is correct. We can do that, but I suggest that we ought not to do that. I think the use of the term "royal commission" to describe a commission of inquiry established by this Territory is an anachronism, and the distinction between a royal commission and a commission of inquiry is unnecessary.

Before going back to this point of royal commission or commission of inquiry, I would just like to look again at the difference between the royal commission and the commission of inquiry. The Attorney noted in his introductory speech that a royal commission would be used for a serious matter, and an inquiry for a less serious matter. When we look at the powers and the structures of the two proposed forms of inquiry, the royal commission and the inquiry, the simple inquiry, we find that they are almost identical.

Both commissions are appointed by the Executive, so we have no semblance of appointment directly by the Sovereign or the Sovereign's representative. Both are creatures of the executive government. The royal commission has terms of reference separately prescribed under the Act. The Inquiries Bill does not provide for terms of reference, but it does say that the inquiry will inquire into a matter specified in the instrument of appointment.

For all practical purposes, in one Bill we have an instrument of appointment and separate terms of reference, and in the other we have an instrument of appointment which specifies the matters to be inquired into - in effect, terms of reference, by any other name. The royal commission, under clause 34, has a separate power to arrest a person who fails to come forward to put his evidence, when summonsed. The Inquiries Bill does not provide that separate power to arrest; but I note that the penalties for failure to attend on a summons are identical, in practical terms, in clause 36 of the Royal Commissions Bill and clause 27 of the Inquiries Bill. The difference is that a person who fails to attend before an inquiry will be proceeded against under the criminal offence there created, whereas a person who fails to attend a royal commission can be directly proceeded against by the royal commission.

There is a slightly broader protection of officers of a royal commission, as opposed to officers of an inquiry. The actual person conducting, counsel assisting, and witnesses all have identical immunities in proceedings.

There is a broader immunity from proceedings to the royal commissions as a whole than the inquiries, but these are fairly minor points.

When we come to the crucial points, such as the power to compel witnesses and the offences for failure to give evidence or for disrupting the body - I will use the term "the body", rather than royal commission or inquiry - there is little difference. It would be, it seems, an efficient method of conducting public business, therefore, to have one form of inquiry and not to have two Acts which duplicate each other in 80 per cent of the legislation and then have some minor additional powers to the royal commission.

One other additional power that the royal commission has is that there is an express power in a royal commission to pass certain information on to the police. I would suspect that that would be a power that a person inquiring under the Inquiries Act would probably implicitly have anyway. I would take Law Office advice on that.

We have two bodies established with broadly similar powers, but different titles. I question why that is considered necessary. I would suggest that it would be a sensible thing in any legislature, if you have two bodies of identical powers to do essentially the same thing, to look at consolidating them into one Bill.

That being so, the Opposition will be proposing that it is unnecessary to proceed with the Inquiries Bill, that one piece of legislation will do the trick, and that it would be sensible to take the Royal Commissions Bill which contains the broader range of powers, so that the one inquiry body is fully clothed with all necessary power and can exercise them as is necessary.

In more minor matters one would be unlikely to be expecting to exercise the power to arrest a person who fails to come forward. I notice that under the Electricity Act there is a specific statutory expectation that the Inquiries Bill might be used. In minor matters you would not necessarily use all the powers, but on the crucial powers - the power to summon witnesses, to deal with persons who disrupt the inquiry, to require a person to give self-incriminatory evidence with the protection in relation to other proceedings - there is no difference.

The difference between a board of inquiry and a royal commission in Victoria, as I said before, is described by Hallett as really insignificant. He notes that boards of inquiry are a fairly unique phenomenon in Victoria. He says that he has found no reference to boards of inquiry in England akin to those appointed by the Government of Victoria.

He notes that Holdsworth, a noted English legal historian of early this century who wrote a very long multi-volume treatise called *A History of English Law*, made reference to the first committees of state in the seventeenth century which had an inquiry power, apart from a royal commission. He said:

> They were called by various names - committees of state, juntas, cabals or cabinets.

I have been looking for a different title to the Royal Commissions Bill. Obviously we could not have a junta Bill or a cabal Bill. A cabinet Bill is equally inappropriate.

Then he says that the term "board of inquiry" gradually came to be used in broad terms. Citing Holdsworth at page 18, Hallett says:

> These commissions and references show us one of the ways in which the state is setting itself to solve the many problems of this new age.

This is the boards of inquiry. He says:

> Through them it inquires and informs itself - they do the work done today by royal commissions.

These older forms of boards of inquiry in England were not called royal commissions. Writing in the 1920s, Holdsworth said, "Today they do the work that is done by royal commissions". Again, in law there seems to be no distinction between a royal commission and a board of inquiry, in terms of their powers and what they can do.

Therefore, we suggest that it is unnecessary to maintain the distinction in the ACT and one form of inquiry body would do. Returning again to my earlier concern about the use of the title "royal commission", I think it is not an accurate description of the statutory body that is to be created. There is an understanding in the public mind that a royal commission is a body created under the hand of the Governor or the Governor-General. There is a suggestion in the community that a royal commission is somehow more important than an inquiry.

Mr Humphries: It is.

MR CONNOLLY: Mr Humphries says that it is; but, as I have endeavoured to show and I think his Law Office advice would confirm, in law it is not. There may be a public perception of that, but I do not think it is necessary to have two pieces of legislation for that. The suggestion that the Opposition will be making in the detail stage is that we, in effect, do away with the Inquiries Bill and proceed with the Royal Commissions Bill but style and title it the "Commissions of Inquiry Bill".

On the Opposition's amendments - the amendments are being typed upstairs now and I will be able to circulate them this morning - there will, therefore, be one legal source of authority for inquiries in the ACT. That would be the Commissions of Inquiry Act. I think that in a new body politic, the Australian Capital Territory, it is an anachronism to talk of a royal commission, particularly when we do not have a direct relationship with a representative of the Sovereign that every other body politic has. There is no administrator here; there is no body exercising the royal prerogative, apart from the Executive. Lawfully such royal prerogatives as exist in the ACT are exercised by the Executive, and the Executive is the political group that controls the Assembly from time to time. They do not have the same aura in the public mind as the Sovereign. The legal reality and theory in any other State is that a royal commission is appointed by the Sovereign, but - - -

Mr Humphries: We could fix that.

MR CONNOLLY: Mr Humphries says that he will fix that. I think these royalist pretensions to establish an administrator are deeply held by at least one member of the Cabinet. I dread to think what property in the ACT they have their eyes on for Government House. Perhaps Calthorpes' House in Mugga Way might be seen as an appropriate vice-regal residence for Mr Humphries.

Mr Duby: No, we will build one.

MR CONNOLLY: Mr Duby says, "We will build one". We will see.

I think that it would be a sensible suggestion for this Territory to adopt a simple and modern form of statute to provide it with these necessary powers to conduct inquiries into matters of public importance. The Opposition can see no justification or need for two Bills. Given that it would, therefore, be more efficient to proceed with one Bill, our view would be that those powers ought be exercised by a body simply styled a "commission of inquiry" and clothed with the powers that are presently contained in the Royal Commissions Bill. For all practical purposes, they are the same powers that would be conferred, on the Government proposal, on the body created by the Inquiries Bill which will simply be called an inquiry.

We think a commission of inquiry in Australia in 1991 is a more appropriate body to establish in a newly self-governing Territory than a royal commission. This is not merely a political point on a republican principle - members of the Assembly may have different views on the issue of whether Australia ought in time become a republic - but we think that a royal commission is an anachronism. *(Extension of time granted)*

We think that this would provide a more appropriate body to undertake the necessary public duty which a commission of inquiry must have in a modern body politic. When the detailed amendments are proposed I will be circulating them to the Assembly; but, in effect, they change but the title and definitions in the Royal Commissions Bill. Effectively, we would oppose the passage of the Inquiries Bill. The consequential provisions Bill would become the Commissions of Inquiry (Consequential Provisions) Bill and the references to the two Bills would be correspondingly altered. I will be able to circulate those amendments later, in the detail stage.

MR HUMPHRIES (Minister for Health, Education and the Arts) (11.11): I think it is agreed by the Assembly that these Bills are important pieces of legislation and that they constitute further work in the task of establishing the appropriate mechanisms for ACT government. It is helpful to hear comments from the other side of the house about ways in which we might enhance the ACT's unique position, to ensure that we have provided mechanisms in the ACT which are appropriate to our position and to our requirements. There is always, of course, in addressing legislation such as this, the need to decide whether we should be the same in terms of what other Australian States and Territories do, or whether we should be unique or different. Those questions have been raised by Mr Connolly. There is some response.

I am not sure, from listening to Mr Connolly's remarks, whether he was saying that there was an argument for having an administrator as a result of our inability to use the royal prerogative to appoint royal commissions as we do not have a vice-regal representative in and for the ACT. I will have to read his speech in *Hansard* in close detail to see whether that was what he was saying. I suspect that it was not.

I have to say, however, that it seems to me that Mr Connolly spoke to us eloquently as a lawyer but not as a politician. It seems to me that even people in the street who might follow legal or political matters in much detail do appreciate that there is a very significant difference between commissions of inquiry or inquiries, or whatever term might be applied, and royal commissions. They appreciate that there is a significant difference in their status. What is more, they understand that royal commissions are appointed in exceptional circumstances and possess different or exceptional powers to deal with exceptional circumstances. That would be the fundamental reason why the Government has introduced two Bills - the Royal Commissions Bill and the Inquiries Bill; it sees an important difference in those two roles.

Mr Berry: Rubbish!

MR HUMPHRIES: Mr Berry says, "Rubbish". Mr Berry obviously does not pay attention to what happens in other places in this country where every government preserves the right to use royal commissions. Whatever their view of the anachronism or otherwise of the title, every government preserves the right to use and, in fact, does use, on occasions, the capacity to appoint royal commissions. Every government realises that the aura and importance of such mechanisms are an important part of delivering, on occasions, a response to particular, exceptional circumstances.

I think that we have to draw a distinction between the sorts of instances where inquiries under the Inquiries Bill may be held and those where royal commissions might be appointed under the Royal Commissions Bill. Obviously, that distinction is blurred under Mr Connolly's proposals.

The comments that Mr Connolly makes do sound to me very much like the sorts of things that one would expect to hear from a person who grew up under Don Dunstan. I can see a great many features of the South Australian environment rubbing off on Mr Connolly and he, in turn, is attempting to rub them off onto the Assembly and then onto the ACT.

Perhaps in the course of time the ACT will be looking at becoming a progressive jurisdiction like South Australia. For the moment we believe that it is our job as a government to provide the ACT with mechanisms which are appropriate to its circumstances and which reflect the powers, broadly speaking, that are enjoyed by other governments in Australia. It seems to me to be entirely appropriate that a royal commissions enactment is one of the important features of acquiring the rights and prerogatives of other governments.

I also have to say that I am disturbed that Mr Connolly proposes amendments which we on this side of the chamber have not yet seen. Although he now describes them as fairly minor, they sounded fairly major when he began to speak. Perhaps copies of them have been circulated as I have been speaking, but I do not see one on my desk. Apparently, they have not been circulated. I have to say that it is rather unfortunate that we have legislation as major as this and we have a proposal, in effect, to sink one of the Government's three Bills coming before the Assembly today and we have not yet seen the Opposition's amendments. They are arriving right now.

Mr Connolly: The Government ones are.

MR HUMPHRIES: The Government amendments are arriving. We have not yet seen the Opposition's amendments.

Mr Moore: It illustrates how busy the Opposition has been while the Government has been on holidays.

MR HUMPHRIES: Talking about being on holidays, I wonder why it has taken 10 weeks. It is 10 weeks since these Bills were tabled. Yet only on the morning of the debate do we have amendments from the Opposition.

Mr Kaine: Because they were all on holidays.

MR HUMPHRIES: Apparently they were all on holidays - mentally if not physically - over the last few weeks. I can assure the Assembly that the amendments being circulated by the Attorney are nothing like as fundamental as those which have been proposed by Mr Connolly.

Mr Connolly proposes that we should sink one of the Government's three Bills here today. I would argue, with the greatest respect, that he does so with little regard to the significance of what he is proposing that we should do. It cannot be considered an inconsequential matter. It is obviously extremely significant that the concepts of an inquiry or a board of inquiry and of a royal commission should be merged into the one piece of legislation under the one aegis.

It is a significant development. I do not think that we can take that kind of consideration very lightly. This matter is, of course, up to the Attorney-General. I am sure he will consider Mr Connolly's suggestions and give them due weight. I have to say, for my part, that I think it is pretty rich to have to accept such important amendments on the floor of the Assembly just as we are coming to debate the matter.

The Royal Commissions Bill provides for a response of a very high level to particular circumstances where issues need to be resolved in a factual sense. A royal commission appointed under this Bill does not have a judicial function, but it certainly has judicial powers. The function of a commission obviously is not to make rulings or judgments in the way that a court does, but to make a report and to report those findings to Government within the terms of reference which have been given to that commission.

There is a provision in the Bill for the tabling of the report of such a commission or for the tabling of part of the report by the Chief Minister. That discretion is an important one. It does provide the capacity to take account of a report or part of a report which might be of a confidential nature. Frankly, with the sensitivity of some matters before royal commissions elsewhere in this country, that is important.

The Bill, as Mr Connolly pointed out, in line with the Inquiries Bill, contains the power to give a commission power to summon witnesses, to take evidence and to determine the conduct of an inquiry as the commission sees fit. The powers inherent in a royal commission are significant. They are not only seen to be significant;

they are significant. A royal commission is a powerful tool for impartial inquisitorial and investigatory inquiry. In my view it goes beyond what would be expected in an inquiry.

For example, to appoint a royal commission to investigate the Casuarina weir situation would be seen to be an excessive response to a particular problem. I forget the title that Mr Connolly was referring to, but to change the title to something less than a royal commission would also generate the expectation in some people's minds that some less significant response had been generated by the Government to a particular matter into which an inquiry was sought.

As I said before, if Mr Connolly strongly feels that the ACT should abandon this anachronism, he ought to put a very compelling case as to why this should happen in this jurisdiction when it has not happened elsewhere in this country and also explain why governments, even of his own persuasion, continue to use that mechanism. Perhaps it is because it is appropriate. In fact I think that, to be up to date, a royal commission - - -

Mr Jensen: They are a bit busy at the moment, particularly in the Labor States.

MR HUMPHRIES: Yes, they are very busy at the moment. The South Australian Government, so much regarded by Mr Connolly, has in the last few days, as I recall, even appointed a royal commission - not a board of inquiry, not an inquiry or an investigation - into the activities of the State Bank of South Australia. Obviously, such an anachronism has some friends in this country.

The Inquiries Bill is important in its own right. It replaces the Enquiry Act which is over 50 years old. Although I have not seen the Enquiry Act of 1938, I can guarantee that it is significantly out of date and that an adequate and updated piece of legislation is required to support official inquiries in the ACT. Obviously, as Mr Connolly pointed out, this Inquiries Bill has many elements in common with the Royal Commissions Bill; but, obviously, the intention of this Bill is to provide for an inquiry into a matter of general importance at a lesser level as opposed to the Royal Commissions Bill.

It is intended that the Executive - the Cabinet - would appoint a board of inquiry on an ad hoc basis when the need arose for the Government to inform itself or, more generally, to inform the community in such things as the making of policy. That is an entirely appropriate kind of function, but not one which I would think is quite so much in the area of a royal commission. A board of inquiry could assist in the formation of policy or aid the decision-making processes essential to government. It can comprise either part-time or full-time members. That introduces flexibility in the conduct of such an inquiry.

The Bill provides for a board to hold hearings which are to be held in public, subject to a direction of the board that because of the confidential nature of evidence before it, or whatever other reason might seem appropriate, a hearing is to be held in private.

The Inquiries Bill is legislation which is essential to good government in the ACT. I am pleased to see that there has been no suggestion from the Opposition that this kind of capacity - whether it is called a royal commission or an inquiry - ought not to devolve to government.

Mr Speaker, the legislation has sat on the table for some two months now. I would hope that it was possible to deal with it quickly. I see that the amendments to be moved by Mr Connolly have arrived. I will look at them with interest. I would hope that they do not cause the Bill to be delayed, because it is important that we have - - -

Mr Wood: You might apologise for what you said before.

MR HUMPHRIES: I am supposed to apologise for something; I am not sure what.

Mr Wood: You were being very caustic and he was right up with you mob.

MR HUMPHRIES: Mr Speaker, I have to say that it is entirely appropriate to be caustic about amendments as important as these which are circulated a matter of minutes before the Government is expected to respond - in fact, after the Government is expected to respond to proposals from the Opposition.

I commend these Bills to the Assembly because they do add significantly to the powers of the ACT Government and are important in establishing a basis upon which to deal with difficult and complex situations as they arise in the future.

MR MOORE (11.26): Mr Speaker, it is quite surprising to me that we actually have the two Bills - from this perspective really more than any other: I have understood that Liberal philosophy is to work with minimal legislation where possible. Therefore, if there is a way to create one Bill rather than two, I would have thought that the Liberal Party would be very keen to ensure that that would be the case.

Certainly, one's attitude to royalty must come through in a debate such as this. Whether one actually supports the notion of the constitutional monarchy for Australia and the relationship it bears to this Assembly, of course, does have some bearing on whether or not one would like to call this Inquiries Bill a Royal Commissions Bill. For myself, I would favour dropping of the term "royal".

I do point out that there is a very important distinction between these Bills to which Mr Connolly has not drawn attention. I hope that it has nothing to do with the fact that the three speakers that we have heard on this are in fact legal professionals themselves. In clause 6(1) of the Royal Commissions Bill it says:

> A person shall not be appointed as a commissioner unless the person -
> (a) is or has been a Judge; or
> (b) is a legal practitioner and has been enrolled as a legal practitioner for not less than 5 years.

I can see the need and the importance for having a legal practitioner on some sorts of inquiries - probably the vast majority of inquiries. The Inquiries Bill, however, does not have that requirement at all. We have a major distinction in that way. If we were to try to favour the Liberal philosophy of having as little legislation as we possibly can, then I think, in fact, that there is room for a compromise. I think that the suggestion that Mr Connolly has brought up is eminently sensible.

If we have a powerful body which, in this case, is identified as a royal commission inquiry, which covers the other things that are intended to be achieved by the Inquiries Bill, then we ought be able to proceed with one piece of legislation. In fact, I do not really see any reason why one could not remove that provision in clause 6(1) that the commissioner has to be a judge or a legal practitioner. I would expect that in almost every case that would be the case. That is how the appointment would be made.

However, I can think of certain inquiries where, in fact, somebody of legal training may not be the most appropriate person. One of the topical issues at the moment is the banking industry. It may well be that if an inquiry was made in the ACT into a bank here - and I doubt that that would necessarily be the case - then it would be most important to have somebody with a strong accounting and economic background. That background may well not be available in a prominent person in the legal profession. It may be appropriate to appoint, in addition to a judge, somebody with that kind of background who stands out as being prominent in the area.

In fact, in some ways I certainly support the notion that Mr Connolly has of producing one Bill to cover these inquiries. I also think it is appropriate that we drop the words "royal commission" from what Mr Connolly has described as an "anachronistic" title. Whilst I accept the idea that was put forward by Mr Humphries that the public understands that a royal commission is something of greater power than other inquiries and is the sort of inquiry we use for the most serious of cases, I think that it is not necessary for that title to be used in the ACT. We now

have an opportunity to move forward. As Mr Humphries pointed out, Mr Connolly has come from the Dunstan era in South Australia. Of course, I also grew up in South Australia in the Dunstan era myself - - -

Mr Humphries: That explains a lot.

MR MOORE: Mr Humphries interjects that that explains a lot. That may well be. I point out to Mr Humphries that neither Mr Connolly nor I have worn shorts into this Assembly - as, indeed, I remember that Mr Dunstan did in South Australia - although it does tend to get hotter there than it does here, both politically - - -

Mr Humphries: You were the first to take your coat off, though. You are on the way.

MR MOORE: Once again, Mr Humphries interjects that I do take my coat off. That is quite right, Mr Humphries. That probably also accounts for my not being a die-hard royalist. That is not to say that I oppose the importance of royalty either. I will just sit on the fence on this one for the time being. However, because of the relationship of our Assembly to the Crown, I think it is quite appropriate for us to drop that Bill.

There will be some who will argue, no doubt, that these inquiries Bills are being put up simply as a method of giving the Alliance Government the opportunity to join with the New South Wales Government in their inquiry into the building industry. That is actually a very narrow view of things. If that is the case, well and good. If there is a need for an inquiry into the building industry, then let us do it; let us not be frightened to do it. At the same time, we have to be very careful with any inquiry because all of us are very much aware of the financial constraints that we work under.

I believe that no member of this Assembly is likely to go willy-nilly into any form of inquiry because we are very much aware of the expense of this type of inquiry. I certainly know that the Chief Minister takes that as a very important part of any such decision.

Therefore, it is most important for me to congratulate the Alliance Government and Mr Collaery for bringing these Bills to the Assembly. I agree with them in principle. I certainly request that you consider the suggestion that we cut them down to one Bill. One method of doing that, of course, is to complete the in-principle debate today and after some small amount of discussion - because it does appear to be a relatively simple thing to do - to bring back one Bill instead of the two Bills; the Royal Commissions Bill and the Inquiries Bill. Perhaps this way we can start on that process of reducing the amount of legislation that people have to deal with. I think that is a most important function. It is a most important principle that I favour. If there is no need for a piece

of legislation, or a part of legislation, then we ought to remove it. We should try to manage to have the least amount of legislation possible.

MR BERRY (11.35): This Bill is a very interesting initiative of the Government because of the history that it has built up behind it. I would like to deal with that a little later. First of all, I want to talk about some of the things that Mr Humphries has said on the issue. It will not take me long because he did not seem to contribute much to the debate on the issue other than to clutch at the need for the retention of the word "royal" in the description of this legislation. It strikes me that, if Mr Humphries had his way, Mr Kaine would have a big black Rolls Royce parked down in the basement with a crown bolted onto the front.

Mr Kaine: I would not accept it.

MR BERRY: Indeed, you would not. You are to be congratulated for that. If Mr Humphries had his way, I am sure that you would have one.

Mr Humphries: I would rather have you bolted to the front of it.

MR BERRY: I hear Mr Humphries say that he would rather have me bolted to the front of it. I suppose that is a measure of my effectiveness

Mr Jensen: Use you as a bumper, Wayne.

MR BERRY: Well, I am tough enough. The need to maintain the strings to royalty is a tired old need. I do not know what Mr Humphries is looking for. I cannot imagine him being dubbed Sir Gary.

Mr Collaery: Give him time.

MR BERRY: I know that he is working on it. I have never heard of anybody being so dubbed for wrecking the education or health system for which he is responsible. He certainly might think that retaining the "royal" element of this legislation might earn him a tap on the shoulder with a sword. I doubt it.

This issue is really a lot of froth and bubble about pretty tired old legislation. The legislation is tired because it has not been used much. The Government has not talked about the need for the legislation, why it is being implemented or who has called for the upgrading of the legislation. It just seems that the Government is not interested in talking about a justification for improvements to the legislation. Maybe it wants two pieces of legislation because it can then say that it has introduced two pieces of legislation on inquiries in the ACT. Now that my colleague Mr Connolly has talked about the necessity for only one piece of legislation, I suppose

the Government could say that it supports twice as much legislation on inquiries in the ACT as does the Opposition, and all those sorts of things.

The history of this issue really goes back to the New South Wales royal commission into the building industry. It was reported in the *Canberra Times* on 21 June that the ACT Government was considering whether the New South Wales royal commission into the building industry should be extended to the ACT. It is not surprising that that should happen, because Mr Collaery, of course, had developed a bit of a reputation for his dislike of building unions in the Territory. Of course, it was likely that he would be sympathetic to anything that would give them a bit of a serve, because, after all, they were amongst the first unions to demonstrate against the behaviour of Mr Collaery and his Residents Rally colleagues in this Assembly.

I think that points out where the changes to this legislation have come from. It is not about a need that has been demonstrated in the Territory; it is about joining with the New South Wales Government on a building industry inquiry. Mr Kaine said, in the *Canberra Times* on 22 June, that it was a sensible proposal. Mr Kaine might like to deny this, but according to the *Canberra Times* he said:

> But I would agree that if there are any indications of trouble in the construction industry and NSW is conducting such an inquiry then it would be sensible to do a joint inquiry.

Mr Kaine also said that he was not aware of any allegations of corruption in the ACT building industry. I do not know how he makes a judgment that it would be sensible in the ACT if he is not aware of any allegations of corruption in the industry. Anyway, the Trades and Labour Council, of course, pointed out some very important issues in respect of the Government's indications at that time. The first one was the copycat approach that had been taken by this Government after Greiner had moved in New South Wales on what has been described as a union bashing exercise for political purposes.

Once the complaints started to roll in about the Government's approach on this legislation, it was not surprising that we saw Mr Collaery start shifting his ground a bit. This is what he always does when the pressure goes on after it has been discovered that he has made a blue, or that there are some objections to what he is doing. It reported in the *Canberra Times* on 24 July that the Attorney-General was not clear about the future of the legislation. He said that the inquiry would be very expensive and might only provide a bonanza to the bar.

I recall that just a little while ago Mr Collaery called on his colleague Mr Duby to apologise to the legal profession for telling them to "get stuffed". I wonder whether Mr Collaery has thought of apologising to the bar for his

comments there, because it seems to suggest to me that Mr Collaery was saying that there were some parasites just waiting to get stuck into the money supply that would flow as a result of a royal commission. I bet Mr Collaery did not think about apologising for that, and I bet the bar were not particularly impressed with those sorts of comments appearing in the *Canberra Times.*

Mr Stefaniak: They are pretty thick skinned, Wayne.

MR BERRY: Mr Stefaniak said that they are pretty thick skinned. Those things go close to the bone, and I do not think they need to be said by somebody in the position of Attorney-General. All of these events point to the reasons for these changes in legislation. Mr Collaery, of course, was working closely with Mr Dowd in New South Wales and was very comfortable to work with him. It made it very clear that this was a conservative move and reflected the old contests between the conservatives and the trade union movement. Mr Collaery was swept up in the move against those workers in New South Wales.

By 27 July Mr Collaery now favoured the idea. He had gone from a stage where he thought it might be a good idea to a stage where it might not be a good idea because it might be too costly. He hedged his bets a bit, and by the 27th he was reported as favouring it. Of course, at that point the New South Wales Premier Nick Greiner had said that he would not object to the ACT joining the inquiry. He cited Canberra's new Parliament House costing $400m more than necessary as one of the reasons. He said that ACT Government officials had asked for permission to take part in the building inquiry.

The truth starts to come out now as to where Mr Collaery is coming from. At first it was just a whim; then it was a very clear indication that Mr Collaery had made a specific request to join the New South Wales Government inquiry to get stuck into building industry unions. It is not surprising that the next person to jump on the bandwagon was Mr Howard, the Federal member for Bennelong. He gets stuck into the Building Workers Industrial Union as well - all accusations, I should say, which are not supported by any evidence, which is typical. He goes on to say:

> Builders and tradesmen privately are accusing the BWIU of behaviour at least as bad as that which - - -

Mr Collaery: On a point of order: I let Mr Berry go. Whatever Mr Berry thinks of it, there is a royal commission extant in New South Wales. I draw your attention to page 494 of *House of Representatives Practice.* Mr Berry is saying that there is no evidence of something. I believe that that is crossing the boundary. He is referring to the industry and he is making determinative statements in this chamber about a matter before a royal commission. I ask that he be careful with his further comments.

MR SPEAKER: Thank you for that warning, Attorney-General. Mr Berry, please heed that advice.

MR BERRY: I disagree most strongly with what Mr Collaery has said. I was making no comment about the evidence that is before the inquiry. I was commenting on a press release from Mr John Howard, the Liberal member for Bennelong, who went on to say:

> Builders and tradesmen privately are accusing the BWIU of behaviour at least as bad as that which earned the BLF and several of its state branches deregistration nearly five years ago.

There is no supporting evidence for that. It is - - -

Mr Jensen: On a point of order: Once again, Mr Berry is seeking to discuss evidence that is before a royal commission and make assumptions as to the basis of evidence that is currently before a royal commission.

MR SPEAKER: If Mr Berry is in fact reading from a press release, I believe that that is acceptable. Please proceed, Mr Berry.

Mr Kaine: From whom?

MR BERRY: I have said it about three times. You just have to listen. It is from John Howard MP, the Liberal member for Bennelong. Do you remember that fellow? Boy blunder. This was in Sydney on 12 August 1990. Let us not get too tetchy about the issue. I know that your conscience might be bothering you, but let us not interrupt debate just because the illustrious Mr Howard is being talked about in this place. The fact of the matter is that he made accusations about building unions without supporting them in his press release. I understand that the people opposite might be sensitive about that, but that is the way it is.

MR SPEAKER: Order! On behalf of the Assembly I would like to welcome members of the New South Wales State Parliament to our chamber.

MR BERRY: So, we have a situation where the ACT Government is clearly copycatting the building industry inquiry in New South Wales which has been variously described as a union-bashing exercise. I think the most interesting point about the introduction of this legislation into this place is the lack of any history or supporting argument that there has been a need for a change in the legislation in the ACT other than to extend the New South Wales royal commission into the building industry into the ACT.

Of course, that was reported in the *Canberra Times* of 12 August, where it said that the ACT would join the New South Wales royal commission into the building industry as

soon as the legal complications were resolved. That was credited to the ACT Attorney-General. According to that report, he had a meeting with Mr Dowd and the royal commissioner, Mr Gyles. He was quoted as saying:

> This inquiry can blow away the cobwebs and either put down the allegations for all time or, otherwise, identify the malefactors and ensure that they won't be around to impede the resurgence in the building industry.

Again, there was no evidence offered; there never has been, all the way along. It is merely rhetoric. As has been said by others, it is copycatting what is going on in New South Wales. My colleague Mr Connolly rightly said on 14 August that there was no need for an investigation into the ACT building industry. He said that these royal commissions tend to make a life of their own, and Mr Moore has raised the issue of costs. I think that is something relevant for the Government to consider. It has not raised those issues here.

MR KAINE (Chief Minister) (11.50): I am not going to speak for very long. I have been quite surprised at the change in the tone of the debate upon Mr Berry getting to his feet. Up until that time we were talking about the merits of the legislation before us, but Mr Berry spent his entire time talking about a particular case that might at some future time be subject to this legislation. I think that he talked about members on this side of the house being tetchy. It is quite obvious that, if anybody is tetchy on this issue, it is Mr Berry. One might well ask what prompted him to come into this house and launch into the tirade, in defence of trade unions, to which this particular legislation has no relevance whatsoever. It is quite clear that the Government has introduced this legislation because there is a deficiency in the legislation that we inherited from that Government. It is necessary that the old Enquiry Act be brought up to be relevant in the 1990s. It is also important that this Government and any future government - including one of yours, if you ever form one again - have the power to appoint a royal commission if it is ever needed.

I am not going to get into a debate about royal commissions. The distinction between a royal commission and other forms of inquiry that the Government might undertake has been clearly made. I think even Mr Connolly recognises that there is a great difference. In the minds of the public there is certainly a great difference.

Mr Berry: No, there is not; not the ones who read the *Canberra Times.*

MR SPEAKER: Order, Mr Berry!

MR KAINE: I am not debating with you at the moment, Mr Berry. You had your go. Be quiet.

If this Government ever finds it necessary to convene a royal commission, the public will know immediately that it is a matter of great public concern. We convene inquiries all the time. They are of different degrees of importance, but a royal commission has a significance that other government inquiries do not have.

It is rather puerile for Mr Berry and members of the Opposition to argue that there is no difference and that it does not matter. There is a difference. It does matter. All other sovereign parliaments in Australia have the power to appoint royal commissions and this Government should be no different. If this legislation is defeated, and if Mr Berry ever gets into government again, he may well find that there could be circumstances in which he would wish to appoint a royal commission. It is a futile argument to say that that is not the case.

I want to deal with his 15 minutes of argument about the BWIU and other trade unions. Since he has introduced it, I think it is an opportunity to refute the assertion that this Government is a confrontationist government in confrontation with the trade unions. The Opposition itself noted yesterday that there was a period of industrial relations quiet. Mr Berry asserted that this is because the trade unions are going to wait until this Government goes out of beam before it starts any industrial trouble. How absurd. I bet his mates in the BWIU and the other trade unions would not agree with that. If they have a difference with this Government, they will tell us about it.

The simple difference between a Labor government and this Government is that we talk to the trade unions, and we do it constantly. When there is a problem, we resolve it by negotiation. This legislation is in no way directed at the trade unions in the ACT. If I have a difference with the BWIU or any other trade union and I believe that there are matters to be discussed, I will discuss it with the officials of that union and the Trades and Labour Council. I have no hesitation in doing that. I am doing it constantly.

As much as Mr Berry hates it, I believe that I have a very good working relationship with the trade unions - as do other Ministers of this Government. So, his attempt to link this legislation into some fight with the trade unions, or some vendetta against the trade unions, or some attempt to make this a weapon against the trade unions, is patently absurd and no government would set about such a deliberate course of action. Certainly this one will not. We will continue to use our skills in negotiating and our ability to communicate with the officials of these trade unions rather than pulling a royal commission on them. It is absolutely absurd. While he went to great lengths in his debate to quote politicians and others in other places, nothing that he said about members of this Assembly had any relevance to the case that he was trying to make.

Once again, Mr Berry has completely failed to make any useful contribution to the debate. I note with interest that at no stage in his argument did he say that these Bills were not necessary. He just used it as a bit of a political forum in the hope that he could curry a bit of favour with the people that he perceives to be his electorate out there. I believe that he is totally wrong in that.

I support the legislation. I believe that it is legislation that is necessary - absolutely necessary. There is a distinction between royal commissions and other forms of inquiry. This legislation makes that distinction. It is not only the public perception of the difference between a royal commission and other forms of inquiry either; it is the processes and the protection that is given to people conducting an inquiry under the auspices of a royal commission - and the evidence that is presented, as compared to the protection that is given in other forms of inquiry.

I am sure, despite Mr Berry's uninformed debate, that Mr Connolly is well aware of the differences. I know that he is. He has an in-principle objection to the term "royal" because of his politics. I can understand that. In today's age, of course, a royal commission is in no way linked to the monarchy. It is simply a title that has been used as a matter of custom and will continue to be used for a long time to come because of its special significance. I would ask members of the Assembly to use their rationality and their reason - rather than the emotive issues that Mr Berry attempted to introduce into the debate - and support the legislation.

MR COLLAERY (Attorney-General) (11.57), in reply: I wonder what Mr Berry would think if we did away with the royal prerogative of mercy, because he might need it. I thank members for their constructive comments in relation to the two Bills being discussed cognately today. There is a consequential provisions Bill as well. That takes into effect the fact that we overlooked some matters relating to the Freedom of Information Act when we brought the two Bills forward.

I think the differences between the two pieces of legislation have been adequately pointed out by my colleagues; and, in effect, conceded by Mr Connolly. The differences, of course, were conceded by him when he remarked upon the different structures of the Bills. Mr Moore put his finger on a profound difference between the two, and that is that the stature of a royal commission is different; its inquisitorial role is far broader; and, because those very wide powers are given in that piece of legislation, the Bill demands that the royal commissioner be an eminent lawyer.

No such preserve is created for lawyers in relation to the Inquiries Bill. I even heard noises on our back bench applauding that. Accepting that lawyers are not always popular in this community, the Inquiries Bill enables our Government to appoint eminent persons to chair ad hoc inquiries. Clearly, as my colleague Mr Humphries pointed out, with the nature of any inquiry that we may wish to set up on an ad hoc basis in this Territory, it is necessary to give it privilege and, particularly, the immunities that apply to its functions, above those of the normal type of community advisory council that many governments in this country appoint.

The term "royal commission", on the other hand, puts a message to the populace that there is, by command of the commissioner, a requirement to assist and a requirement to attend to a matter of grave public interest. To date, with some exceptions, governments generally, in the Australian system, use royal commissions only in matters of grave and profound public interest. Ironically, of course, there is no greater user of royal commissions at the moment than either Labor governments, as they ride out the rest of their term on the back of the *Titanic* in several States in this country, or people who have inherited from Labor governments.

I accept that the Labor Party should have a very deep and profound interest in the subject matter before us today. It is an entire quantum leap to suggest that we have brought this matter forward for some short-term temporal gain to do with the building industry, or any other issue that may entertain the population. I do feel that the prime function of inquiries and commissions is to inform a government. It is an aspect of our democracy, inherited naturally from our Westminster traditions and, earlier than that, Norman days, whereby inquiries can be put about on an independent basis to determine the facts and to reach conclusions thereon.

It is strength to a democracy that we have this type of legislation. I am indebted to the Government Law Office for the very wide review it conducted of legislation throughout Australia and abroad in relation to these forms of structures. I would like to think that the legislation before the house represents the latest in the style and form of inquiry and royal commission-type statutory empowerments that we have in this country.

No doubt improvements will be made to the legislation in time. No doubt other States, or the Northern Territory, may produce something better, but on my advice we have put together the best of what exists to date. We have applied some newer concepts in terms of procedural fairness because we all recall what happened to Captain Robertson in the *Voyager* inquiry. We are aware that in these times there should be an enjoiner on any chair of either of these types of inquiries or commissions to act with procedural fairness.

I commend these Bills to legislatures elsewhere. I believe that we have related them to other administrative legal precepts. They may set some minor model in that type of legislation. As the Opposition knows, the Government has a proposal for a judicial commission in its legislative program. Whether that proceeds or not is a matter, of course, for the Government; but there are elements of the more modern inquisitorial and inquiry provisions that will correlate to the instruments before the house today.

Mr Berry made some comments about an inquiry that is under way in New South Wales. I want to set the record straight. Of course, I have an excellent working relationship with the New South Wales Attorney, John Dowd, among other Attorneys in this country, and the Federal Attorney, Michael Duffy. The suggestion that there is some cabal formed is entirely inappropriate. Mr Berry should know that this particular royal commission was set up by the Premier of New South Wales, as far as I can determine, and, in fact, is not a matter that has been necessarily driven by my parliamentary colleague Mr Dowd.

The other matter of curiosity from Mr Berry's speech that I will comment upon is his apparent desire that there be an inquiry into the BWIU. Of course, it may advantage the Left of the Labor Party in this Territory for our Government to launch upon such an inquiry and I trust that when this *Hansard* reaches the Trades and Labour Council the Council will consider what tactics are unfolding from the Socialist Left faction of the Australian Labor Party in the Territory at the moment.

I can assure Mr Berry and the house that the Chief Minister and the Government here today are not going to be fooled or pushed into any impulsive decision in relation to the matters that Mr Berry raised. If he really has an agenda to secure that inquiry into the right wing that he perceives may exist up at the TLC, I can inform Mr Berry that we are not going to play his factional games - in any case, on this side of the house.

The structure of Canberra society is that we have community consultative structures that have been in place for a number of years, most of them dealing with the community grants programs. However, our Government, unprecedentedly, has been establishing committees to advise on and to inquire into matters that have had broad community representation and support. That is the foundation and the base - in matters of greater impact or matters requiring protection and privilege and empowerments - for those who wish to conduct further inquiries or committees under this legislation.

I want to put these two pieces of legislation into context. They are at the top of the pyramid of a consultative inquiring government. Governments need knowledge; they need to test out community opinion. Sometimes people are not willing to come forward with information unless they are given protection. These Bills provide protection to people who may be intimidated from giving evidence, and that is important. At the same time we should record here the great debt of gratitude we have to all the ad hoc committees of inquiry and the advisory committees that are at the base of the development here today. I commend the Bills to the house.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1

MR CONNOLLY (12.07): The Opposition will persist with its amendments. I heard the remarks of the Chief Minister where he said that there is an important difference between a royal commission and an inquiry. He referred to "protection", "status" and "power". I just again say to the Assembly that the legal statuses of the inquiry and the commission are identical.

If we look at the question of the protection of members of a royal commission, we see in the Royal Commissions Bill that a commissioner, in the performance of his or her functions, has the same protection and immunity as a judge of the Supreme Court in proceedings in that court; and so, no doubt, we have Mr Humphries' remarks that royal commissioners exercise or enjoy judicial-type privileges and immunities, as indeed they do. Then I look at the Inquiries Bill and I see that a member in the performance or exercise of any function or power, has the same protection and immunity as a judge of the Supreme Court in proceedings in that court. So, the status, the protection, and the privileges are the same.

We reiterate our view that it is unnecessary to have two inquiries. It is merely a piece of window-dressing. The more efficient and modern procedure would be to have one Bill called a Commissions of Inquiry Bill. I move:

> Page 1, line 5, omit "Royal", substitute "of Inquiry" after "Commissions".

MR MOORE (12.09): I would like to support the notions that Mr Connolly has put and remind those Liberal members of the Alliance Government that, where it is possible to manage with a single piece of legislation, that is what we should be doing. I would add that the matter of status - the issue that the Chief Minister raised and to which I was listening - is an important issue, but I believe that that status would follow the work of the commissions rather than the notion of tending to establish status first.

We are still a very new Assembly - a new form of government. That is something that we have to earn; not something that we can simply demand, or have demanded of one of our own organisations. It is quite appropriate that we have a single piece of legislation. It is quite appropriate that the name suggested by Mr Connolly be used for a single piece of legislation, taking into account, of course, the removal of clause 6(1).

MR COLLAERY (Attorney-General) (12.10): My short response is to endorse the comments made earlier on this side of the house. I say again to Messrs Connolly and Moore that, were they in government, and were they apprised of the issues and practical aspects of melding these two Acts together, they would understand how chalk and cheese they are in many respects.

Mr Connolly: What respects?

MR COLLAERY: For example, in the Royal Commissions Bill and the Inquiries Bill the procedures for tabling differ. As was drawn out by Mr Moore, the appointees are fundamentally different. The Bills provide different levels of empowerment for the two structures. What you are talking about means that you are going to have a salt and pepper Bill which goes from one thing to another and is not easy to read or work with. There are two short Bills here. Someone appointed as a royal commissioner can go and look at his or her empowerment - or an Inquiries Act. There is a simple, practical issue about the way these Bills were drafted. I can assure members that the issues raised now were considered, but it seems entirely appropriate that they be treated differently.

Indeed, we want the stature to attach to a royal commission if, regrettably, we ever have to appoint one in this Territory. The Royal Commissions Act, as it will become, will, in fact, stand out as such. There is no secret agenda. I think the matters raised on the other side of the house are arguable. However, on the best advice available to the Government we have gone this way.

Question put:

That the amendment (**Mr Connolly'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.

Clause agreed to.

Clause 2 agreed to.

Clause 3

Amendment (by **Mr Connolly**) negatived:

Page 2, lines 16 and 18, definition of "Commission", omit "Royal", substitute "of Inquiry".

Clause agreed to.

Clause 4 agreed to.

Part II

MR CONNOLLY (12.17): I move:

Page 3, line 1, omit "Royal", substitute "of Inquiry" after "Commissions".

I also seek to amend line 3 of clause 5 by deleting "Royal Commission" and replacing those words with "Commission of Inquiry". The arguments again are well before the Assembly.

Amendment negatived.

Clause 5 agreed to.

Clauses 6 to 51, by leave, taken together, and agreed to.

Title

Amendment (by **Mr Connolly**) proposed:

> Page 1, omit "Royal Commissions", substitute "Commission of Inquiry".

MR HUMPHRIES (Minister for Health, Education and the Arts) (12.18): I was going to make a personal explanation before, but I thought I might use this opportunity just to make something clear from earlier in the debate. Mr Berry accused me of having some affection for royalty and seeking some knighthood or something as my motivation for - - -

Mr Wood: Check your diary.

MR HUMPHRIES: Yes, my diary is evidence of that. It is not the case, in fact. The point that I was making, and I think the Chief Minister and others in the course of the debate, was that the term "royal commission" has acquired a certain understanding in the public mind. That is the point. It could be called the junta or the "hunta", as it should be pronounced, Mr Connolly. The junta inquiry, or the cabal inquiry, or the Labor Party Caucus - whatever it was called - if it had that public understanding, and it was in the public mind, would be acceptable to be retained. That is the only reason I propose to retain the title "royal commission". It has a clear understanding in the public mind and denotes the seriousness or the intent of a government which appoints such a body to conduct some inquiry. It is nothing to do with my aspirations towards obtaining a knighthood.

Amendment negatived.

Title agreed to.

Bill agreed to.

INQUIRIES BILL 1990

Debate resumed from 13 December 1990, on motion by **Mr Collaery**:

> That this Bill be agreed to in principle.

MR CONNOLLY (12.20): We have debated this Bill cognately and the Assembly has now voted on the amendments circulated by the Opposition which would have changed the Royal Commissions Bill into a single Commissions of Inquiry Bill. We argued that it was an appropriate course of action and that the Inquiries Bill was unnecessary.

However, given that the Government did not see fit to take that sensible course of action and have a single Inquiries Bill, we would have to concede that as you have established a Royal Commissions Bill it would be pointless of us to suggest that we do not have an Inquiries Bill because a royal commission into a very minor and trivial matter of administration, given particularly that you have retained the provision that it can be headed only by a judge or a senior legal practitioner, would be a hammer cracking an egg shell.

We proposed the course of efficiency and economy. It has been rejected by the Government and, therefore, we would propose not to vote against this Bill. As you have not seen fit to adopt our more efficient, economical and sensible provision, we will have to inflict two Bills on the people of the Territory; otherwise we would be requiring a royal commission into every minor matter of administration.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ROYAL COMMISSIONS AND INQUIRIES (CONSEQUENTIAL PROVISIONS) BILL 1990

Debate resumed from 13 December 1990, on motion by **Mr Collaery**:

That this Bill be agreed to in principle.

MR CONNOLLY (12.22): Amendments have been circulated in my name to amend this consequential provisions Bill. They were amendments which would have been necessary had the Assembly adopted our amendments to the principal Bill, that being the Royal Commissions Bill. Given that the Assembly has retained the title "Royal Commissions Bill" and that we have passed the Inquiries Bill, I will not move those amendments as circulated in my name. They have been overtaken by events.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

The Bill

MR COLLAERY (Attorney-General) (12.23): I present the supplementary explanatory memorandum that has already been circulated today. I move:

> Schedule: After the amendment of the *Electricity Act 1971*, insert the following amendment:
>
> *"Freedom of Information Act 1989*
>
> (ii) a body that, under subsection (2) or the regulations, is not a prescribed authority for the purposes of this Act;
>
> (iii) a Royal Commission appointed under the *Royal Commissions Act 1991;* or
>
> (iv) a Board of Inquiry appointed under the *Inquiries Act 1991;*".

MR CONNOLLY (12.24): The Opposition has no difficulty with this amendment; it was clearly by way of an oversight. The position, certainly with the Federal Freedom of Information Act and, as I understand it, the Freedom of Information Act in Victoria - I am not sure of the position in New South Wales - is that royal commissions and inquiries are exempted from the provisions of the Freedom of Information Act. This amendment simply seeks to tidy up that position in the ACT. We have no objection to the amendment moved by the Attorney.

Amendment agreed to.

Bill, as amended, agreed to.

RINGING OF BELLS

MR SPEAKER: In regard to the ringing of the bells prior to the commencement of sittings, I have instructed that the bells be rung for a period of seven minutes in lieu of the existing five minutes as the additional time is apparently required by some members, if not all. I have also instructed that, as soon as work can be carried out, the tone be modulated and the repetitive ring cycle of the bells be lengthened to make the bells less audio aggressive.

Sitting suspended from 12.25 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Unemployment

MS FOLLETT: My question is to Mr Kaine. Mr Kaine, I refer you to the Australian Bureau of Statistics data which was released this morning and which indicates a 30 per cent increase in unemployment in the ACT over January. That figure, of course, is well in excess of the national increase. Mr Kaine, as Minister for economic development, do you now accept that the ACT does have special problems which deserve special attention from your Government, or are you going to continue to keep your head in the sand and blame the Federal Government?

MR KAINE: I have to say, in answer to the question: No, I do not believe that we have special problems that need special treatment. In terms of unemployment, the ACT is still better off than the rest of the country. The unemployment rate is lower here than it is elsewhere. Certainly, there has been a change in the last couple of months. Some of that reflects school leavers who have not yet started other training courses, and I expect that the unemployment rate, particularly amongst youth, will show a reduction when a lot of those young people take up training courses, whether at university or at TAFE or at other institutions. The fact is that our local economy is performing better than that in the rest of the country, and to assert that there is something peculiar and unusual here shows, I suggest, a complete lack of understanding on the part of the Leader of the Opposition as to the factors that drive this economy.

Rates

MR MOORE: Mr Speaker, my question is directed either to the Treasurer or to the Minister for Finance; I am not quite sure who is going to answer it. It is a question of raising revenue and rates. I would be quite happy for either of them to answer the question, but in the initial instance I will direct it towards the Treasurer. As the economy, at times, makes it more and more difficult for ordinary people to find their next dollar, I wonder about the double penalty people incur for not paying their rates on time. In the initial instance, failure to pay the rates means paying the full year directly, but on top of that there is also, I note, a 20 per cent per month interest rate penalty - - -

Mr Duby: That is not correct.

MR MOORE: It is written on my rates notice.

Mr Duby: That is not correct. It is 20 per cent per annum, and you know it.

MR MOORE: I take an interjection from Mr Duby. It is 20 per cent per annum monthly. I quite accept the interjection. I was not intending to present it the other way. Even that, I realise, is too great for this Government.

Ms Follett: Charge it to Westpac.

MR MOORE: Nevertheless, a 20 per cent interest rate, of course, is far higher than that charged by any of the banks, including the one mentioned in the interjection. It would normally be considered excessive, because it is a double penalty for those who cannot find the money for their rates. What is the Alliance Government intending to do to assist those people?

MR KAINE: That, clearly, is a matter for the Minister for Finance, and I suggest that the question be directed to him.

MR SPEAKER: Mr Duby is prepared to take that question.

MR DUBY: Given the way the question was directed, I am quite happy to answer it, Mr Speaker. I thank Mr Moore for the opportunity to comment on these matters. There is no question about the fact that, in essence, the details of what Mr Moore talked about are correct. If people, for whatever reason, fail to meet the payment of their rates by their instalment that is due on a quarterly basis, the legislation that pertains to the payment of rates specifies that the full amount is then due and, as that amount goes outstanding, a rate of 20 per cent per annum is charged and charged on a monthly basis, which is, basically, what Mr Moore outlined.

I should point out that I do not regard the 20 per cent interest rate as being iniquitous at all. It is a similar rate to that charged, for example, by the Taxation Office on outstanding taxation bills which are not paid on time, and a similar rate to that charged by other Commonwealth departments throughout the country. It seems to be a standard rate that is applied. Needless to say, there should be some incentive to make people pay on time, because the payment of rates is an imposition that all of us in this community have to bear, and it is not fair that those who do meet their commitments and make that payment on time then subsidise those who deliberately choose not to pay their rates on time.

The other point that I think needs to be borne out is the simple fact that the loss of the right to pay your rates by instalment applies, of course, in cases where people have not paid and have not entered into any negotiations with the rates office. If people are aware that their instalment is due on a certain date, it really behoves them, I believe, to contact the rates office - just as they would contact any other financial institution in the city - and say that they cannot meet this instalment on this day

for whatever reason. If they do that, then they are quite capable of entering into an arrangement with the rates office and of coming to some mutual agreement as to the period of time within which that money can be paid.

Needless to say, in those circumstances an interest rate is still charged to them, which I think is only fair and reasonable; but if people put their position on the line with the office they will receive a favourable and reasonable attitude from the officers. They can enter into an arrangement to pay any amounts that are owing over a period of time, and that is the way that any sensible and reasonable person would enter into it. If people know that they cannot pay and they simply do nothing about it, they are then instructed that they are required to pay the full amount at once. And, again, I think that that is perfectly reasonable.

MR MOORE: I have a supplementary question, Mr Speaker. Considering that you have said that the rates office would consider a reasonable approach from somebody: Firstly, do you think it is important for that to be added to the printed words that are on the rates notice, so that people realise that that option is available to them? And, secondly, considering that the CPI is running in the order of 7 or 8 per cent, surely you must consider that 20 per cent interest is still excessive.

MR DUBY: You snuck in two supplementary questions there, but I will be glad to answer both of them. In terms of the notice, no, I do not believe that it is unreasonable of the rates office not to put that on the notice. Anyone who has any dealings whatsoever with any financial organisations knows that if the payment cannot be made on time they should contact that organisation and put their case to them. I do not believe that it behoves the rates office to be printing that when other organisations throughout the city, whether they be banking institutions or similar organisations, do not do that and, indeed, would frown upon that practice.

Getting back to the interest rate of 20 per cent per annum, I should point out to Mr Moore that 20 per cent per annum is still cheaper than, for example, the commercial interest rates applying on Bankcard, et cetera, that people would perhaps use to pay their rate instalment off. So, in terms of getting a better deal, they are far better off in getting an agreement with the rates office to pay off their rates than to go and use their Bankcard to get a cash advance and pay it off in one hit.

Royal Canberra Hospital - Public Relations Campaign

MR CONNOLLY: Mr Speaker, my question is directed to Mr Humphries as Minister for Health. I ask Mr Humphries: What will be the cost to the Canberra taxpayer of your proposed public relations campaign at the Canberra Show and shopping centres, which is designed to con the people of Canberra into believing that your decision to close Royal Canberra Hospital was justified?

MR HUMPHRIES: Mr Speaker, the question is hypothetical, because I do not plan any campaign to con anybody. What the Government does plan, however, is to provide information at the Royal Canberra Show in precisely the same fashion that I think governments have, for a long time, provided information on features of the health system in the ACT on which people might have questions. That sounds pretty reasonable to me. It sounds entirely reasonable that people should have access to information, particularly as so much misinformation comes from those sitting opposite - not so much Mr Connolly, but others on his front bench.

I do not wish to denigrate Mr Connolly; but, when it comes to disinformation, his colleague in front of him leaves him for dead. The fact of life is that in the course - - -

Mr Berry: I raise a point of order, Mr Speaker.

Mr Kaine: Are you eating your lunch while you are talking, Mr Berry?

Mr Berry: One has to keep the sugar levels up to catch up with some of the disastrous things that you people - - -

MR SPEAKER: Please get to the point of order.

Mr Berry: I think that accusing me of disinformation is unparliamentary and ought to be withdrawn.

MR HUMPHRIES: Mr Speaker, I can substantiate this claim if Wayne gives me a couple of hours. I have plenty of material to substantiate it.

MR SPEAKER: I think you should move that as a substantive motion. Would you just withdraw that? It was a passing comment and I do not think it does anything for the debate.

MR HUMPHRIES: All right, Mr Speaker, I withdraw that statement; but I stand by the statement that the Opposition, particularly Mr Berry, is guilty of misinformation on a grand scale, frequently and without stint - - -

Mr Connolly: On a point of order, Mr Speaker: Can we direct the Minister to answer the question: How much will it cost?

Mr Berry: On a point of order, Mr Speaker: The disinformation issue comes up again. You have already ordered him to withdraw it.

Mr Jensen: He did not use "disinformation"; he used "misinformation".

MR SPEAKER: That is probably acceptable. Please proceed, Mr Humphries.

MR HUMPHRIES: The facts have never got in the way of those opposite. They have sought repeatedly and unstintingly to misrepresent the situation with respect to the development of the hospital system. To give you one small example, the claim by Mr Berry that the public hospital system was going to see the closure of the accident emergency facility at Royal Canberra Hospital South was completely and utterly inaccurate.

Mrs Grassby: On a point of order, Mr Speaker: Would Mr Humphries like Mr Berry to read the question again so that he knows what the answer is? The question is: How much will it cost?

MR SPEAKER: That is not a point of order, Mrs Grassby.

MR HUMPHRIES: Mr Speaker, I might remind those opposite that they asked about - - -

Ms Follett: The cost.

MR HUMPHRIES: No, they also asked about a snow job - I think that was the expression.

Ms Follett: A con job.

MR HUMPHRIES: A con job was what they asked about; they wanted to know about this con job. I am telling them about the con job. The real con job that occurs is the con job that is coming from those opposite. Mr Speaker, the amount being spent by the Government to provide the information stall at the Royal Canberra Show should be no more than the amount provided in previous years for similar endeavours. There is no special activity going on in that regard; there are no particular plans to make some kind of extravaganza out of this exercise. I will happily take on notice the question as to the exact dollar amount and return to Mr Connolly in due course.

Australian War Memorial - Admission Fee

MR STEVENSON: Mr Speaker, my question is to the Chief Minister, Mr Kaine. Is the Chief Minister pleased to note that the iniquitous entry fee for admission to the Australian War Memorial will be withdrawn and that Canberrans and tourists will once again have the right of free entry to the memorial?

MR KAINE: I can only answer the question with a wholehearted yes. In fact, I wrote to the Prime Minister only recently asking him, if he had not already done so, to intercede with the management board of the war memorial, to make sure that no such charge was levied. I think the point has been made very strongly by a lot of people over recent weeks that the price of admission to that memorial has been paid well and truly, and not in money. To ask people, such as the relatives and descendants of the soldiers who are commemorated by that memorial, to pay to visit that memorial would be a travesty. I was most delighted to see that those responsible have changed their minds on that issue.

Preschool Restructuring

MRS NOLAN: Mr Speaker, my question is to Mr Humphries, in his capacity as Minister for Education. Mr Humphries, what progress has been made in the process of preschool restructuring for 1991?

MR HUMPHRIES: Mr Speaker, I thank Mrs Nolan for that question, acknowledging her interest in this matter on an ongoing basis. Negotiations have been progressing smoothly towards the collocation of six government preschools to North Ainslie, Campbell, Red Hill, Turner, Yarralumla and Mawson primary schools over the last few months.

Constant liaison has occurred between officers of the Ministry for Health, Education and the Arts and the preschool and school communities that are concerned. At this time, the collocation to North Ainslie Primary School is the most advanced. Initial indications are that the parties involved in the move are very pleased with the standard of modifications planned for them. The trial of the preschool cluster program in Weston Creek is proceeding in a very positive fashion.

Strong interest has already been shown in the use of the two vacated preschool sites during the one-year trial period. A variety of community groups have made bookings, including local playgroups, the Woden and Weston community centres, scouting and similar groups, music programs and adult exercise classes. The ministry has provided a quantity of furniture for the benefit of these user groups. Clearly, Mr Speaker, considerable community use is still being made of those facilities in the vacated sites. A working party to evaluate the trial preschool cluster program in 1991 has been formed, and its work has begun.

School Closures - New Traffic Arrangements

MRS GRASSBY: My question is to Mr Humphries. Is it true that, of the $200,000 allocated for new traffic arrangements resulting from school closures, $210,000 was spent outside Lyons school?

MR HUMPHRIES: Mr Speaker, I do not know the answer to that question. I very much doubt it; but I am happy to take that question on notice and I will get back to Mrs Grassby on the subject.

Christmas Road Safety Campaign

MR JENSEN: Mr Speaker, my question is directed to Mr Collaery, in his capacity as Attorney-General. Members will probably be well aware of the road safety campaign that was conducted over the Christmas period. Can the Attorney advise members of the Assembly how successful that campaign was?

MR COLLAERY: I thank Mr Jensen for the question. I can inform the house that the AFP did, in fact, conduct a Christmas road safety campaign during the period 29 November to 24 December 1990. The campaign was given a high profile by the media, and I publicly record the Government's thanks and the community's gratitude for the efforts the media went to in reducing the road toll.

Mr Speaker, the campaign was conducted by utilising slant radar, random breath testing - that is, RBT - and normal patrol squads. The results of the road safety campaign were that 17,731 RBTs were conducted, resulting in 123 drivers being equal to or over the then prescribed concentration of alcohol of .08. Mr Speaker, 2,041 persons had positive readings up to and including .05 and 672 had readings of between .05 and .08. I stress that these readings were taken before the implementation of the changes on 1 January.

Mr Speaker, 819 drivers were detected exceeding the speed limit. The highest speed was 150 kilometres per hour on Belconnen Way, where an 80 kilometres per hour speed limit is applicable. A further 59 miscellaneous offences, including unregistered vehicles, smooth tyres and unlicensed drivers, were detected. Mr Speaker, 370 traffic infringement notices or summons were issued for non-compliance with seat belt legislation. They consisted of 305 drivers, 49 passengers, six young persons and 10 children. In addition, 308 cautions were issued for non-compliance with seat belt legislation. They consisted of 162 drivers, 93 passengers, 31 young persons and 22 children. Mr Speaker, sadly, on 8 January 1991, one person died as a result of injuries he received in a two-car collision on Christmas eve. This was the only death in the

ACT for the Christmas period. The total number of road deaths on ACT roads in 1990 was 27, compared with 36 in 1989.

I want to publicly record the thanks of the Government and the respect of the community for the great effort the AFP put into policing our roads during the Christmas season. I particularly thank all those uniformed officers who gave up their normal leave to meet the requirements of this campaign, and I express thanks to their families for putting up with that disruption.

Macquarie Primary School

MR BERRY: I am tempted to ask the question of Mr Duby. I see that he is reading an excellent publication, "Burdekin slams Collaery". I was going to ask him, "How many times?". But my question is directed to Mr Humphries. Mr Humphries, what are you going to do about the fact that 35 pupils in grade 5 at Macquarie Primary School - and we happen to know the numbers there; perhaps you might not - are isolated from the rest of the school to the extent that they have to undertake something equivalent to the Long March to get to the toilets?

MR HUMPHRIES: Mr Speaker, Mr Berry, as usual, has got his facts wrong; there are actually 36 students involved in the group. The facts are fairly immaterial, so it is hardly important to raise them, but I thought he might like to know what they were.

Mr Berry describes year 5 students in Macquarie Primary School who are in the wing - the former infants wing - in which the Independent Living Centre is presently located. He describes that location as being distant from the rest of the school. I think he used the term "the Long March". I have to say, Mr Speaker, that anybody who has visited the school - that probably does not include Mr Berry - would not need to look very hard to see that, in fact, the distance between those two parts of the school is very small. I would hardly think it constitutes a major problem for the time being.

I do not particularly like the fact that we have been unable to provide better accommodation for that school at this stage. However, I remind those opposite, Mr Speaker, that the reason the Independent Living Centre is still in the Macquarie Primary School, and not moved out pursuant to the Government's announced intentions, is that the Trades and Labour Council asked the Government to leave the Independent Living Centre there until such time as an inquiry was conducted into appropriate locations for it. That is the reason why it has not been moved out. If I had my choice it would go out tomorrow. I make no secret about that.

It is a question of looking at what those opposite say about consultation. We have consulted with the community, and the TLC, which was involved actively in the Cook picket, said to us, "As a condition of us lifting our bans on Cook and Macquarie schools - at least on the Macquarie school - we would like to see an inquiry into the Independent Living Centre's location and, as a result, we would like to see it stay there". That might not have been what the Macquarie parents wanted. It might not even have been what the Cook parents wanted. Certainly, both sets of parents - or, at least, representatives of both sets of parents - have told me that they would rather that it was gone. But I have acquiesced - or at least my predecessor, as Acting Minister, has acquiesced - in a TLC request for a delay in that move. If those opposite in the Labor Party cannot get their act together with their allies in the TLC, that is not my fault.

MR BERRY: I have a supplementary question, Mr Speaker. I am very pleased that the Minister has, today, got his finger on the pulse on an issue that he could not answer yesterday. He has told us that the number of students is actually 36. I am glad he has confirmed that because - - -

Mr Jensen: On a point of order, Mr Speaker: I raise standing order 119.

MR SPEAKER: Supplementary questions are to be brief and to the point.

MR BERRY: This will be brief.

MR SPEAKER: It has not been so far. Please proceed.

MR BERRY: Schools are generally staffed for 30 students, Mr Speaker. How is it that this class is at the 36 level? You promised, Mr Humphries, that no child would be disadvantaged.

MR HUMPHRIES: Mr Speaker, my promises can certainly be implemented as soon as other people who involve themselves in the process accept the problems associated with these situations and allow the Government to get on with the business of providing high quality education for children in those schools. The fact of life is, Mr Speaker, that we have to deal with other people in the community and in this case I have to say that, in my opinion, the TLC's request has resulted in inconvenience, hopefully on a temporary basis, for students at Macquarie school.

However, Mr Berry did get one of his facts wrong again. He failed to mention, that although there are 36 children in the class, it is treated as a composite class and has two teachers. Therefore, with two teachers, there is a ratio of 18 children to each teacher. That is a very acceptable ratio, considerably below the 30 that Mr Berry mentioned before.

School Closures

MR WOOD: I direct a question to the Education Minister, Mr Humphries. We are pleased that he catches up on these things, but sorry that he cannot do it as soon as he should. On this question: Mr Humphries, will you give a commitment that the Government will not consider the closure of any more government schools?

MR HUMPHRIES: We are getting into the same exercise as we had, I think, yesterday. I indicated the answer to this very clearly to the Assembly last year. Obviously, the 10 weeks since the last sitting has not helped them find any new questions to ask, because I answered this question only last year.

Mr Kaine: Do not give them any morning tea breaks. They forget what they have learnt before.

MR HUMPHRIES: That is right. Obviously, they forget. However, for the benefit of those opposite, I will repeat once more that, beyond the plans announced by the Government, there are no intentions to close any further schools in the life of this Assembly.

Public Accounts Committee

MR COLLAERY: In view of the interest shown by the Opposition in Mr Humphries' expenditure on an exposition, my question is directed to the Leader of the Opposition, as chairperson of the Public Accounts Committee. My question of Ms Follett is: Have you not distributed throughout Canberra a letter, with your signature on it, that commences, "Dear North", or "Dear South", or "Dear Tuggeranong Resident, As your local representative in the Legislative Assembly ..."? Is this letter on Assembly letterhead? Does it not contain your name without the identification of your party? Has it used a characteristic colour? Will you undertake to inquire into the cost of these many thousands of letters that appear to have been sent out at public taxpayers' expense on Legislative Assembly letterhead?

Ms Follett: On a point of order, Mr Speaker: I do not believe that the matter that Mr Collaery refers to is in any way my responsibility as chairman of the Public Accounts Committee.

Weapons Legislation

MR STEVENSON: My question is to the Attorney-General. In his presentation speech this morning on the Weapons Bill 1991, the Attorney-General stated:

> Coincidentally, a significant proportion of the correspondence I received supporting a ban on pornography also defended the so-called right to bear arms.

Would the Attorney-General be good enough to inform this Assembly how many letters he received supporting a ban on X-rated pornography, which also spoke of the right of Australians to bear arms?

MR COLLAERY: I thank Mr Stevenson for his continued interest in that and other subjects. Thousands of letters on this subject appear to have gone across my desk in the last year, and I constantly noted references to immigration and weapons in a large number of those letters, which I have not retained.

Share Transactions Stamp Duty

MS FOLLETT: My question is again to Mr Kaine as the Treasurer. I refer him again to Premier Greiner's decision to abolish stamp duty on share transactions, which will cost the ACT budget around $11m and will, of course, lead to a transfer of resources to people in our community who are actually wealthy share transactors. I ask the Chief Minister and Treasurer: Does he agree that this is "a sensible move"?

MR KAINE: I am glad that the Leader of the Opposition has asked another question on this, because it gives me a chance to explode her myths and her scaremongering in terms of an $11m reduction in the budget. First of all, that is a total distortion, a total untruth, and the Leader of the Opposition knows it. The simple fact is that, of $18m revenue last year, only $247,000 related to the kind of transaction that will be affected by Premier Greiner's decision. That is $247,000 in a whole year, out of $18.3m. So it is a total absurdity on the part of the Leader of the Opposition to suggest, when we do not even have a stock exchange, that our budget could be affected by something of that order of magnitude. It is another case of the misinformation that Mr Humphries referred to before.

I note, Mr Speaker, that marketable security revenue can be categorised into three different sources. The first is the transfer of unlisted securities, where duty is paid by the purchaser; the second is the transfer off market, that is, they are not traded on the stock exchange, but listed as securities, where duty is also paid by the purchaser; and the third is the transfer on market, that is, where the

buying and selling are done on the stock exchange of securities, where the buyer and seller each pay half the duty. It is only that last sector with which we are concerned here.

Having regard for that, so far as the ACT is concerned, while we cannot be precise on what the final outcome on the revenue will be, it will clearly be very minor. It will be nothing like the $11m that Ms Follett threw out yesterday. She might do a bit more research before she throws those figures about. So far as the ACT economy is concerned, I believe that the action taken by the Premier of New South Wales is the right one. I would say that in the very near future all the other States will follow. This did not come quite out of the blue. It is a matter that has been under debate and discussion for quite some time. It should not have been any surprise to anybody and we - along with the other States and the Northern Territory - will follow the Premier of New South Wales in that decision, I would guess, within a very short time.

Passive Smoking

MR MOORE: My question is directed to Mr Duby, as the Minister for industrial relations. It follows a question that was asked yesterday of Mr Humphries about smoking. Considering the High Court decision on smoking, is the Government intending to make a statement on the occupational health and safety ramifications of that High Court decision? What will the Government stance be now in ensuring that workers are protected from the deleterious effects of passive smoking?

MR DUBY: I thank Mr Moore for the question. Mr Moore is undoubtedly aware that smoking is currently banned in ACT Government buildings, throughout this building and throughout other properties which belong to the Territory; but, more to the point, Mr Moore, I am not the Minister for industrial relations.

Public Housing

MS MAHER: My question is directed to Mr Collaery, as the Minister for Housing and Community Services. Can the Minister inform the Assembly as to what steps have been taken to reduce public housing vacancy times?

MR COLLAERY: I thank Ms Maher for the question. Mr Speaker, new procedures have resulted in the improvement of three weeks on average in the time taken to undertake internal painting and other maintenance on vacated dwellings. The average turnaround time at the end of last year - and these matters take some time to assess - was 24

days. The target is to reduce average vacancy times to 21 days or less. Vacant dwellings not requiring maintenance are, of course, reallocated much faster than this.

The reduction in maintenance time is now being matched by reduced allocation times. I can inform the house that, as of the first week of January 1991, there were 295 vacant dwellings, representing 2.4 per cent of total rental stock. Of that 295: 180 were in maintenance; 101 had been offered and accepted by applicants and were awaiting occupation; and 14 were in the process of being allocated. Excluding the Melba Flats activity, an additional 47 dwellings were being upgraded or redeveloped or were available for occupancy.

Mr Speaker, action taken to improve vacancy times includes secondment of experienced managers from the Australian Construction Services and the South Australian Housing Trust to review procedures; introduction of a new computerised system to monitor vacancies; collocation of housing inspectors with district officers, and that follows, as Mrs Grassby knows, a successful model developed at the Melba reconstruction site; streamlining of procedures for preparing dwellings for reallocation; the conduct of preallocation interviews with prospective tenants; prevacation inspections with tenants who are about to leave; and the introduction of a revised computer system for allocation in July 1990.

Macquarie Primary School

MR CONNOLLY: My question is directed to Mr Humphries, as Minister for Education. Minister, did you deliberately inflame the dispute with Cook parents by arranging for a spare room at the Independent Living Centre at Macquarie Primary School to be used as a storeroom only days before the commencement of the school year, in order to prevent the use of that room as a classroom?

Mr Collaery: He was not here. He was not in the country.

Ms Follett: Do you want to hand it over to Mr Duby?

MR HUMPHRIES: Mr Speaker, as Mr Collaery has indicated, I was not even in the country, and I am very doubtful as to whether Mr Duby would do anything to deliberately inflame a dispute of that kind. So, I can only consider that that question is completely off beam. I am sure that all the measures taken at Macquarie school were designed to further the education of the students who were enrolling, or who expected to be enrolled there, this year.

Private Hospital Development

MR JENSEN: Mr Speaker, my question is directed to Mr Humphries, in his capacity as Minister for Health. I wonder whether the Minister can advise the Assembly why, in fact, he is proposing to continue to persist with the development of a private hospital on the north side of Canberra.

MR HUMPHRIES: Thank you, Mr Jensen, for that question. Despite having higher levels of private health insurance than the Australian average, Canberra has the smallest proportion of acute hospital beds in private hospitals. This means that the people of Canberra are required to finance a public hospital service that is proportionately larger than those of other States and Territories, which places, of course, an unacceptable burden on ACT taxpayers.

The Commonwealth Labor Government recognised this problem in 1986, and approved a trebling of private hospital beds from 91 to 270. It is clear that it had more understanding and foresight than the present Labor Opposition in this Assembly. The Alliance Government has raised this approval level to around 300 as a target for the year 2000 - hardly a massive increase, Mr Speaker. This reflects population growth projections since 1986. The new private hospital, which is to be constructed and operated at no cost to the ACT budget, will complement the John James Hospital on the south side of Canberra. It will expand the choices available to people living north of Lake Burley Griffin, and will operate, I would expect, in harmony with Calvary Hospital.

It will have the ability to attract medical specialists to Canberra; and it can be expected that these people will contribute significantly to both the private and public sectors of health. Expanded private facilities will take some pressure off our public hospitals, as private patients will be able to elect to be treated in a private hospital. This will produce a capacity in our public hospitals for the treatment of larger numbers of Medicare patients. The land on which it will be constructed is designated for such a use; and the hospital and its associated developments will greatly enhance the amenity of the area. Formal submissions will close on 6 March this year, and I expect construction of this new hospital to commence shortly thereafter.

Public Works Contracts

MRS GRASSBY: My question is to Mr Duby. Will the Minister tell the Assembly what checks are made by his department to ensure that monthly progress payments in public works project management contracts are carried out, after major contractors have been paid for work done in the previous month?

MR DUBY: I thank Mrs Grassby for the question. As Mrs Grassby is aware, following the collapse of the Shelley group in the early part of last year, the Government has implemented a policy of monitoring, in cases of project management, the way in which subcontractors and people who are employed on the project receive their pay. It has in place a system in which payments are made through the project manager to the subcontractors.

Mrs Grassby has asked me, I believe, whether I am aware of exactly what checks are made.

Ms Follett: What monthly checks - - -

MR DUBY: I, personally, cannot say what checks are made, because clearly I am not involved in the day-to-day administration of that area. But I am satisfied that all the necessary checks that are required are being made by the appropriate project manager.

MRS GRASSBY: I have a supplementary question, Mr Speaker. If these monthly checks are undertaken by the New South Wales Government for their contractors, why is it not being done in the ACT?

MR DUBY: In regard to that supplementary question, Mr Speaker, I would refute the allegation in the question that those checks have not been made.

Bruce Stadium

MRS NOLAN: Mr Speaker, my question is to the Deputy Chief Minister. What is the present situation, Deputy Chief Minister, regarding the negotiations with the Canberra Raiders relating to Bruce Stadium?

MR COLLAERY: Mr Speaker, I had intended to make a ministerial statement on the matter this week. Unfortunately, negotiations, although effectively resolved in the ACT between the Raiders and the Government, have now moved to an unexpected phase with the New South Wales Rugby League. There are some more complex issues to resolve, regarding a lengthy memorandum from the New South Wales Rugby League. Those matters are taking some further days to resolve, and I hope to be in a position to inform the house and the public of the situation next week.

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

O'Connor Creative Playgroup

MR HUMPHRIES: Mr Speaker, yesterday Mr Moore asked me a question about the closure of the O'Connor Baby Health Centre and the concerns of the members of the creative playgroup that meets at the O'Connor Baby Health Centre. He quoted an assurance that I had given in the Assembly last year that that group would not be asked to vacate the building until alternative accommodation had been found for it. He said that, in fact, the group had been in the position of being forced to leave the O'Connor Baby Health Centre before such alternative accommodation had been found for it.

I can indicate today that I have met with a representative of the O'Connor playgroup, and I have discussed with that person, a Ms Judy Gault, the concerns of her group. I have also met with officers of my department who have been dealing with Ms Gault about that matter. I am informed by both sides that negotiations have been taking place between staff from the ACT Board of Health and the creative playgroup since the baby health clinic closed on 31 January. It is proposed that Mental Health Services will be using the premises for community based programs - programs which are quite apposite to the area in which that particular centre is located.

The playgroup was invited by Mental Health Services to continue using part of the building and the yard for its activities. The playgroup asked permission to erect a shed in the yard in which to store its equipment, and it was encouraged to do this. It was the understanding of my staff that the playgroup was happy to continue operating from the baby health centre under these arrangements, with a review of this agreement at the end of three months.

That remains the situation, Mr Speaker. In other words, that group is very welcome to stay in the O'Connor Baby Health Centre for the time being, and the undertaking that I gave last year concerning the finding of alternative accommodation for it, should it be required to move, stands. At the two meetings that were held between the playgroup and the department, suggestions of other accommodation within the O'Connor area were raised, and the playgroup indicated, as indeed did Ms Gault today, that the group was actively pursuing alternative locations for itself, should the location that it is presently occupying in O'Connor be unsatisfactory. It expected to be able to discover such a place for itself in the near future. At the meeting it was explained that necessary building renovations would be commenced shortly. The roof is leaking and other fairly important pieces of renovation, such as that, need to be done. New staff would not move in until the renovations were completed, in one or two months' time. At that time, playgroup equipment would need to be stored elsewhere. No mention was made of a two-week deadline for moving equipment out of the building.

Mr Speaker, there have obviously been some misunderstandings in those negotiations. Officers of the Board of Health were under the impression, which they conveyed to me very strongly, that at all stages there was complete agreement with the playgroup about the future of that group, and, what is more, that the group would be able to stay, at least for the next three months, in that location. Certainly, no representatives of the playgroup indicated, with sufficient clarity to alert my officers, that the arrangements were unsatisfactory. I regret this misunderstanding, but I can assure members that the undertakings I gave to this house last year still stand.

AUDITOR-GENERAL - REPORT NO. 1 OF 1991
Publication

MR SPEAKER: Pursuant to the Audit Act 1989, I table for the information of members the Auditor-General's Report No. 1 of 1991, for the period July to December 1990.

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

> That the Assembly authorises the publication of the Auditor-General's Report No. 1 of 1991.

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

> That the Auditor-General's Report No. 1 of 1991 be referred to the Standing Committee on Public Accounts for inquiry and report.

PAPERS

MR COLLAERY (Deputy Chief Minister): Mr Speaker, pursuant to section 6 of the Subordinate Laws Act 1989, I table the following subordinate legislation in accordance with the schedule of gazettal notices for regulations:

Freedom of Information Act - Freedom of Information Regulations - No. 3 of 1991 (No. 6, dated 13 February 1991).

Ombudsman Act - Ombudsman Regulations (Amendment) - No. 4 of 1991 (No. 6, dated 13 February 1991).

TRADE MEASUREMENT BILL 1990
Postponement of Order of the Day

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

> That order of the day, No. 4, executive business, be postponed until the next sitting.

T.A.F.E. SERVICES - PROVISION AND FINANCIAL MANAGEMENT
Ministerial Statement and Paper

[COGNATE PAPERS:

T.A.F.E. - RESPONSE TO THE RECOMMENDATIONS OF THE WORKING PARTY TO REVIEW THE PROVISION AND FINANCIAL MANAGEMENT - Ministerial Statement and Paper]

Debate resumed from 29 May 1990, on motion by **Mr Kaine:**

That the Assembly takes note of the papers.

MR SPEAKER: I understand that it is the wish of the Assembly to debate order of the day No. 5, executive business, and order of the day No. 6, executive business, cognately. That being the case, I remind members that in debating order of the day No. 5 they may also address their remarks to order of the day No. 6.

MR WOOD (3.18): Mr Speaker, the TAFE has a central role in continuing the education of young people and the not so young people in the ACT. Of particular interest to this Assembly is its role also to develop a skilled work force to sustain industry and commerce in this city and to encourage economic and social development.

The report which we are debating and to which the Chief Minister has responded is more specifically about how to cut costs and to raise more money. Broadly, the report is about the notion of making the TAFE more self-reliant. It is a move in a direction that I know has been coming for some time. There is nothing entirely new about this and, indeed, TAFE, for some years now, has been seeking to gain more money from sources other than government.

I believe that there are several principles that we all would agree to concerning the operation of TAFE. It has to meet the educational needs of students in particular but also the needs of the community because this city, perhaps more than many, needs a highly qualified work force and it has to be more efficient. I think we would acknowledge that. The paper accurately reflects the pressures on TAFE. It shows that there will be a continued reduction in government funding for TAFE at the same time as there is a continuing demand for courses. We have seen in the last week or so a very large number of people who wanted entry to TAFE but have not been able to gain it. We are all aware of the move for more private enterprise funding for TAFE. The impact of these pressures is a loss of courses and a very considerable decline in enrolments.

I will stress that that has not occurred under the Kaine Government. It has been a pressure and an outcome over quite a long period. Figures I have here show that in 1985 there were 30,000 people enrolled in TAFE courses; in 1989

there were 19,000. That is a very substantial decline over a much longer period than this Government has been in office. When you look at the Grants Commission report on TAFE in the ACT you can understand why that decline has occurred. The decline is substantially in the area of the less essential courses and the recreational courses. Perhaps there was a time, when this Territory was living in easier days, when it was easy for citizens to enrol for cooking courses and the like - these courses are quite commonplace throughout Australia - but beyond any doubt the stage came when it became hard to sustain that level of course.

There is an outcome of this that concerns me. Student numbers, as I have indicated, have dropped considerably; but the ones most affected by this are women students. Whereas in 1985, on my figures, 54.6 per cent of students were women, in 1989 51 per cent of students were women. That means that 2,400 more women than men have dropped out of TAFE courses. There is some significance in that. I would want to know what the courses were before I claimed that as having enormous significance; nevertheless I believe that it is important that women have access to as many courses as possible because I believe that we all accept the position that they have for too long been under-represented in many education and work sectors. So I would ask the Chief Minister, as the Minister responsible for TAFE and for TAFE authorities, to look at that. It is not a problem that they have created, let me acknowledge again; but it is an outcome of the pressures on TAFE.

If we look at one sector of TAFE, that of apprentices, we see this disparity continuing. I want to acknowledge the efforts I have seen over quite a few years by governments and TAFE authorities to redress the imbalance in the representation of women in apprenticeship courses. My comment would be how difficult it is to change that; but we must continue and perhaps we must accelerate our efforts to see that women are more evenly represented in the apprenticeship area of TAFE.

The figures for the 1988-89 financial year indicate that there were 1,509 males in apprenticeship courses and just 285 women. That disparity is even more dreadful when we note that, of that 285, 212 were in hairdressing courses. So we have barely begun to redress the balance and to have women better represented in traditionally male apprenticeships.

Mr Humphries: Or vice versa.

MR WOOD: Yes, but there is a much greater range of courses that women are not being enrolled in. The reverse does not particularly apply for men. Let me answer your question. There were 33 male hairdressing apprentices. It does not really work the other way to anything like the same extent, Mr Humphries.

On what may be a minor point, the most recent ACT Vocational Training Authority report does not give the same split-up, male as against female, as the report the year before for the now defunct ACT Apprenticeship Board. I would hope that it does go back to that method of recording, unless I have missed it somewhere, because we need to have that drawn to our attention at all times.

These are particularly relevant matters because recommendation 8 of the report indicates the importance of equity of access to TAFE services. We can see that there are the most severe difficulties for women to be sure of their access to equity in these courses. It is a matter that I believe the Administration will give their attention to now and in future years.

The change that is occurring in the level of government funding to TAFE is coming fairly rapidly. There is no doubt that it is imposing considerable stress on TAFE and that it will do so into the future. Recently I asked the Chief Minister a question about the proportion of funds that the ACT has been providing and the source of funds from other sources. In 1988-89 the ACT Government appropriation for TAFE constituted 85 per cent of its budget. In the next financial year, 1989-90, the ACT Government appropriation constituted 79.9 per cent of its budget. That is a decline of 6.1 per cent, so it is a quite substantial move. The Chief Minister, in his response to the paper, referred to the triennial agreement between TAFE and the Government about funding - it was principally about funding - and that same movement continues. As I read the figures, from 1990-91 to the next financial year of 1991-92, that decline, which began before this Government was elected, will be a further 6 to 7 per cent, and then a further 6 per cent into the next financial year. So I think we can see that there is a considerable imposition on TAFE.

I understand that TAFE believes that it can accept that and will find funds from other sources. I hope that in these times it is able to do so because it does need to continue with the work, for the benefit of both the students and the community, as I have indicated. It is as significant a development in the education sphere as any that has occurred in this town, so we ought to be sensitive to the needs of TAFE and to its students and maybe take heed if they find that it is a program that is more than they can sustain.

It is difficult to attract entrepreneurial funds or support from industry at any time and if, in the next two financial years, TAFE is not able to sustain that decline in Government subvention I think we ought to listen to its needs and assist it on its way.

The recommendations of that working party have received a response from the Chief Minister. I do not think he has responded in every respect to the 13 or 14 recommendations

that were made. A great deal of attention needs to be given to TAFE, because of the difficult circumstances that I have described. I will be pleased to initiate debates in this Assembly so that we can examine the role of TAFE and see how well it is going or exactly what it needs. It does play a most important part in the development of this city. We do have in this report the basis for further scrutiny, for consideration of what is best to occur, and it does provide scope for further matters that I will raise during the year.

MS MAHER (3.30): Mr Speaker, as we are all well aware, all ACT Government agencies have been asked to tighten their belts and live within the financial restraints imposed by the Commonwealth. This has resulted in agencies, including TAFE, needing to take stock and review their priorities and operations in order to cope with these economic circumstances. The task before TAFE now is not simply to reduce its operations or cut back courses to fit within its budget without considering the impact this would have upon the community, industry and the local economy.

The working party which reviewed the provision and financial management of ACT TAFE services did not forget the disadvantaged members of our society. Within this complex task of examining TAFE's financial and educational planning strategies, the needs of all TAFE's clients have been addressed. I am especially pleased to note the Government's decision to strengthen the role of the institute's advisory committee in guiding and monitoring key priority settings and planning decisions of the institute. I also note that this committee will be reviewing the institute's access and equity policies so that appropriate priorities are placed on providing assistance to disadvantaged groups. These strategies will ensure that the community's viewpoint will be able to be addressed throughout the committee and that the needs of the disadvantaged will not be overlooked.

Mr Speaker, I have a major interest in TAFE, mainly from the viewpoint of women, people with disabilities, people from non-English speaking backgrounds, and all those who find it hardest to obtain a good job.

At present I am involved in two major projects which Mr Wood will be interested in hearing about in that they will be improving the access to courses and training for women. It is important that women can get the training needed to realise their full potential and to be able to obtain employment in areas that most suit their needs. A top priority, for example, is helping women get back into the work force after they have had children or have been out of the work force for some other reason. Some women, when returning to the work force, choose a different career, while others need confidence builders. It is important that the appropriate courses be available to enable them to achieve their ideal employment.

Mr Speaker, our Government's status of women policy gives a clear commitment to this priority. The policy states:

> The Alliance Government accepts there is inequity in participation in certain areas of training and employment ...

It goes on to say:

> To improve future career options and to improve the attractiveness of non-traditional subjects, the Alliance Government will:
> ... review training and skills development options for ACT women, in particular the activities of the Vocational Training Authority, the Education and Training Council and TAFE and the services and programs funded by the ACT Government.

Mr Speaker, I have a firm commitment to these aims and have been working on them since coming into government. As the house will know, Mr Speaker, I am heading a review into training and skill development options for women in the ACT, and I would like to update you on that review.

At present I am working closely with the Women's Employment Advisory Committee, and we have developed very good terms of reference which look at the full range of issues affecting women in this area. For example, we will be looking at the structural barriers which stop women accessing the full range of training and skill development options. We will be identifying any gaps in current service provision, and also looking at ways of improving and promoting women's access to training and development. To achieve these goals, we will be not only working with groups I have mentioned earlier but also consulting with the community and the private sector as well. Mr Speaker, I hope to report to the Chief Minister on these very important issues by June this year. The review is very timely, considering the economic climate, and I believe that it will be of great benefit to the community.

Mr Speaker, another way that this Government is trying to improve opportunities for women is in developing a plan of action for women in TAFE. I know that the ACT Institute of TAFE is totally committed to producing a plan for women to complement the national plan for women in TAFE. The national plan of action for women in TAFE has been developed with a lot of consultation, some of which I have been involved with. I attended the ACT workshop last year and I was very impressed with the range of issues which were then covered, and those issues which have been expanded and are now included in the national plan of action.

Mr Speaker, the plan aims to accelerate and coordinate current action to improve women's achievements in all Australian TAFE systems. The plan is intended to be a rolling process, with regular reviews. This will ensure

that TAFE systems keep up with the changing needs of the community. My understanding is that the national launch of the plan of action is expected in April this year.

I am looking forward to being involved, and I am proud to say that I will be convening a task force to develop the ACT action plan. I will be working closely with TAFE to ensure that women get the best deal possible from TAFE. At the moment we are at the planning stage as to how the task force will operate, and I look forward to reporting on its progress.

Mr Speaker, by the time the Government has both completed and implemented the review into training and skills development options for women in the ACT and developed a response to the national plan of action for women in TAFE, the ACT will have achieved a very high standard of training, especially for women. Mr Speaker, I hope that these brief words have helped outline the high level of commitment that TAFE and this Government have to ensuring that everyone in the community has a chance to reach their potential in the area of training.

MRS NOLAN (3.38): Mr Deputy Speaker, today in this debate I want to contain my remarks more to the unmet demand in many of the schools of the ACT TAFE, and perhaps some of the reasons which could have contributed to this, and also to the School of Tourism and Hospitality in the ACT TAFE, rather than refer to the response to the recommendations of the working party to review the provision and financial management of TAFE.

Members are well aware that the working party was formed to look at the 1989-90 budget funding and priorities for both the short term and the medium to long term, and to find appropriate strategies for TAFE to continue to provide a high standard of service to our community and, of course, strategies which would enable TAFE to respond to the changing education environment. Partly this environment has contributed to the record level of unmet demand for student placement.

Those of us who have been or are closely involved with the TAFE are well aware of the TAFE mission statement to develop a skilled work force to sustain industry and encourage economic and social development in the ACT. There is no doubt that, over the last few years, TAFE has become a leader in the technical and further education field in many of its schools, especially in the School of Tourism and Hospitality. One has only to look at the national awards that have been won by TAFE students over the last few years. These achievements have been remarkable not only for the TAFE students involved, but also for the ACT TAFE teachers. More significantly, they have played a great role in the tourism promotion of our city. Not only does attendance at national awards put Canberra on the map, but when ACT TAFE students win these awards Canberra receives, I believe, a great amount of free

tourism promotion. Mr Deputy Speaker, I want to come back to the School of Tourism and Hospitality and these awards a little later.

Unfortunately TAFE does not have adequate funds to cover the number of courses sought by the community, even though the TAFE system enrols each year more students than the other ACT tertiary institutions combined - a figure which, I believe, has reached over 18,000 in the calendar year.

This strength is indicative of the high standard of ACT TAFE courses amongst both students and employers. However, unfortunately, even though such large numbers are accommodated, several thousand other potential students are turned away. In some cases TAFE limits these enrolments in particular areas in response to labour market forces - that is, industry simply is not able to provide employment opportunities in these areas and it makes no sense for the TAFE to train more people than can be employed with specific skills.

Mr Deputy Speaker, there are, however, several areas where industry is crying out for more TAFE trained workers - for example, in the computing industry, electronics and the business area. The number of people seeking enrolment in these courses recently could have filled up, I think, five times the number of classes that were available. This is, of course, a matter of concern, as sustaining and enhancing the skills of the ACT community is critical to the economic and social development of the ACT community.

A significant factor contributing to the high unmet demand is the higher retention rates being experienced in TAFE since the introduction of fees. There is no doubt that students are collectively more serious in their commitment once enrolled in courses and are more likely to see their studies through to completion. Limited funding, I believe, is the main reason for the high level of unmet demand. There is simply no solution, no single solution, to the resources constraint. There is no way any ACT government could fulfil all the vocational education the community might demand. TAFE cannot stretch its resources to provide the teachers and the related support needed to offer extra classes.

Savings are becoming progressively smaller, more difficult and less certain. The three-year funding agreement made last year between the ACT Government and TAFE will assist in the problem of unmet demand to some extent. The agreement provides a secure funding base for the institute which will assist in planning activities. The institute is looking to other sources for options to raise funds so that unmet demand might be alleviated. These include increasing fees for students, increasing commercial activities and increasing industry contribution to training. TAFE is pursuing all these options to make good the shortfall. Additional funding will be contributed directly by students as the institute pursues its three-year regime of fee

increases. It should be remembered that fee concessions have been extended so that access for disadvantaged students is obviously being improved all the time.

There is no doubt that considerable effort is being directed to expanding TAFE's commercial activities and there have been some major successes in this area, including a significant increase in TAFE exports. However, with respect to increasing industry support, at this stage contributions from industry have been slow and at this time, in difficult economic circumstances, that is perhaps understandable. However, it seems that Commonwealth agencies are still to realise their responsibilities as employers in the ACT. The funding agreement mentioned previously ensures that funds raised from industry will be retained by the institute and can be directed towards providing additional places for students. Industry, I believe, will be more encouraged by this arrangement.

Despite the institute's vigorous efforts outlined, these funds are growing more slowly than student demand. The institute is continually reviewing its priorities to ensure that the range of programs offered and the means for students to enter these programs are as fair as possible for all parties.

I believe that every effort is being made to ensure that the TAFE maintains an efficient delivery to the ACT community, places students in classes and improves the effectiveness of its educational services, and the working party report is certainly a key factor in this.

Mr Deputy Speaker, I mentioned earlier that I particularly wanted to mention the School of Tourism and Hospitality, and the new school building which was finally opened last year after a 10-year battle to get a new school building. Not only are TAFE students and staff very pleased to see that new school building finally come to fruition but also I know that the tourism and hospitality industry was very pleased as well. The responsiveness to industry requirements from the school over the last few years has been well received by the industry. I am very happy to see negotiations continue, with those changes in responsiveness to a changing industry environment.

Mr Deputy Speaker, I mentioned earlier the national awards which ACT TAFE students have won, and in particular the school with which I am very familiar, the School of Tourism and Hospitality. I would like to read into the record some of those awards that have been won at a national level. In 1987 TAFE won several awards. There was the national apprentice cook and the national waiter of the year. In 1988 they went on to win the national apprentice butcher, national CIA cook of the year and the national CIA student waiter of the year.

In 1989 the successes continued with several awards, and in 1990, last year, there were five awards, including the national apprentice butcher, which Katherine McCallum won; the Qantas/Canberra Southern Cross Club study fellowship, which was won by Geoffrey Woodham; the national waiter of the year, which Mark Dawson won; the national trainee of the year, which was won by Francis Duff; and the national golden chef's hat for apprentices in commercial cookery, which Anders Schultz took out. There is no doubt that these awards speak highly of the ACT TAFE and certainly speak highly for the ACT TAFE providing students with quality education.

MR JENSEN (3.47): The provision of TAFE courses is a very important aspect of the development of a vibrant economy. I would like to comment on one issue that is related to the current recession - the recession that the Federal Treasurer indicated that we had to have, although we know that the Prime Minister seems to have some disagreement with his Treasurer on that; but that is for another place. Let me now refer to some ideas that should be considered by not only our own Government but also the Federal Minister responsible.

During this period of recession and industry slow-down, Mr Deputy Speaker, the first reaction seems always to be for employers to immediately cut off their intake of apprentices. At this stage I would like to put on record the major contribution to this important training area by the Master Builders Construction and Housing Association with an industry-wide scheme for apprentices to enable the building industry to ensure that, in times of recession and building industry downturn, apprentices are able to move around the industry, not only to obtain varied experience but also to have an opportunity to continue their apprenticeship if their current employer gets into difficulties.

It is a very important initiative, Mr Deputy Speaker; one in which ACT Government agencies are currently participating at an increasing rate each year. Public sector employees, like ACTEW and ACT Public Works, have, in fact, as I have said, increased the number of apprentices and their participation in the scheme. In fact, it was one of those ACT Government agencies which was given an award by the Master Builders Construction and Housing Association last year for its contribution to this very important scheme.

The major factor in this, Mr Deputy Speaker, is that this provides an opportunity for young apprentices within the industry to be able to move around if in fact their employer is experiencing some problems. However, it is important to remember that during a recession there is a need to not decrease the number of apprentices that are available but in fact to increase the number that is under training so that when the recession finally turns around there will be sufficient trained trades men and women to

take up the slack. Otherwise, Mr Deputy Speaker, we will end up with a boom situation with large numbers of employers looking and searching for apprentices and we will not be able to meet that demand with sufficient speed.

I think it is appropriate for Federal and State Ministers of all persuasions to get together and develop a scheme whereby they would encourage firms and employers and be able to assist them to take on extra apprentices rather than get rid of them. This will ensure a requirement for industry to participate in this program in conjunction with government to ensure that sufficient funds are provided and are available to the TAFE system. I suggest, Mr Deputy Speaker, that it is a short-sighted approach to ignore the fact that when the recession turns around industry will be crying out for suitable trainees. I would like the Chief Minister to have a look at this particular issue just to make sure that this will take place when the recession turns around.

MR KAINE (Chief Minister) (3.51), in reply: I must say that I am quite gratified at the quality of the comment on the report that was tabled some time ago. It is clear that education in general and TAFE education in particular are a matter of considerable concern to the community and to the members of this Assembly. Mr Wood's remarks were well thought through and I would like to assure him that his comments will not go without careful consideration.

The working party's report, which is the catalyst for this debate, is clearly proving to be an invaluable and timely tool, I think, to both the Government and the ACT Institute of TAFE. The ACT and regional communities have come to rely on TAFE services as their primary source of vocational and continuing education opportunities. As we are all well aware, the community likes to have a say in matters such as their education. I believe that the Government did everything in its power to enable this to happen by ensuring that the community was consulted throughout the working party's review.

The Government's commitment to the working party's recommendations will, I believe, assist the Institute of TAFE to manage its financial and physical resources more efficiently and more effectively. I believe that it is already working to minimise the impact of funding restraints on course offerings and student places, in spite of recent commentary in the media which appears to doubt that. I have the utmost confidence in the institute's ability to meet their objectives.

Considerable progress has been made already in implementing many of the working party's recommendations, and several internal reviews of the institute's administrative areas have been completed, with noticeable improvements in some of the services that they provide. For example, the enrolment process has been considerably streamlined as compared with previous years, making the task much smoother

for the TAFE's many thousands of students. I think it is indicative that it is already known pretty well what the outcome of this year's candidacy for enrolment is. I seem to recall that last year many weeks elapsed before the TAFE could say with any certainty what their enrolment was and how many people they could not accommodate.

Links with industry are improving all the time, through various mechanisms put in place by the principal, and I commend the staff of the institute for the energy and commitment that they have put into this. The director recently initiated contact with all of TAFE's stake-holders to ensure that they are aware of TAFE's priorities for 1991 and of the difficulties that lie ahead. I am sure that industry will respond positively to his approaches and be encouraged by the new funding arrangements which guarantee that all of the income that the institute generates through collaboration with industry will be retained by the institute to fund new places or courses.

Mr Deputy Speaker, there has been some discussion in quite recent days, of course, about the difficulties of enrolment this year. There is no doubt that TAFE has experienced its greatest recorded level of unmet demand, in spite of increases in its fees and other perceived deterrents and other inducements. I think this strength is indicative of the high standards of ACT TAFE courses, amongst both students and their employers. Mrs Nolan outlined some of the examples of excellence of student performance which helps to bring to note the high quality of education in this institution.

I wonder whether we should not be doing some research, Mr Deputy Speaker; whether the increasing numbers of students that apply and cannot be accepted at the TAFE indicates a preference for students to move away from university-type education and towards vocational-type work. If this is a trend, then, of course, the Government has to reconsider where it puts its money. It may well be that research would show that we should be re-evaluating the direction of our commitment of our resources to education. If that is a continuing trend, then the TAFE may perhaps be deserving more of the resources and our other institutions less.

I think it is significant, as already pointed out by one speaker, that the TAFE has an enrolment equal to or greater than the combined enrolments of the other tertiary institutions in the ACT. Of course, it is obvious that the TAFE does not have adequate funds to offer the number of courses sought by the community. In some cases TAFE limits enrolments in response to labour market forces. It would simply be unacceptable for the TAFE to be turning out students with some qualifications where there was no employment possible before them in the first place. I think the TAFE has been very good in making sure that they do not consume resources wastefully in that way.

There are areas, of course, where industry is simply crying out for TAFE-trained workers. An example of that is the computing and electronics area and, of course, the business area. It is noteworthy that the number of people seeking enrolment in these courses recently could have filled up to five times the number of classes available. I do not know whether that is indicative of the quality of the courses that are run by TAFE in those areas, whether it reflects an inability for some students to gain admission to other institutions that run courses of that kind, or whether, as I said before, in the public mind there might be a move away from other forms of education and into the TAFE system. I think we need to do some research on that. It is certainly a matter of some concern that in some of those areas there is a very high demand from candidates that cannot be accommodated.

I understand that one significant factor contributing to the high unmet demand is the higher retention rate being experienced in the TAFE since the introduction of the new fee structure last year. Students are collectively more serious in their commitment once enrolled in their courses and are more likely to see their studies through to completion because of that. So there are clearly a number of different factors working.

In terms of the availability of resources, it is obvious that there is no simple answer to it. We have entered into a three-year funding agreement with the TAFE. We have given them every opportunity to seek funding from other sources and we have agreed to putting up fees. Despite all of that, we cannot meet the demand. I think it has to be accepted that, no matter how effective the TAFE is in using the resources that are available to it, there will, in the short term at least, be an unmet demand. Of course, it is clearly impossible for this Government to provide all of the funds that would be required to accommodate all comers, much as we would like to. I think that in the longer term we may get closer to it, but for the time being it is going to be very difficult.

The TAFE management is doing a great deal to expand its commercial activities and I think there have been some very major successes. In fact, while I was in the United States recently I visited the Foothills Community College at Los Altos Hill in California, at which time I signed a twinning agreement between that college and the ACT TAFE. I see considerable benefit in the future from that initiative, taken by the director, in terms of the cross-flow of ideas, the cross-flow of information, and the exchange of staff members. Hopefully, some students in California who would otherwise be at Foothills Community College might be attracted to come and take at least some courses here in Canberra. I think that there are commendable efforts being made by the director and his staff to improve the quality and the performance of the TAFE.

I note that the faculties that are having the greatest difficulty in satisfying newcomers are tourism and hospitality, electronics, community education, and management and business studies. I think that the Government needs to do some research, and we will do some research, into why there is such an increasing demand for that.

In conclusion, Mr Deputy Speaker, for the reasons that were outlined so well by Mr Wood, the Government is monitoring and will continue to monitor the performance of the TAFE, and the need to provide resources to it. We are, of course, into the three-year agreed funding arrangement; but we will constantly be reviewing the resources that are required in response to the community demand.

Question resolved in the affirmative.

PERSONAL EXPLANATION

MS FOLLETT (Leader of the Opposition): Mr Deputy Speaker, under standing order 46, I ask your leave to make a short statement.

MR DEPUTY SPEAKER: Yes, Ms Follett. I understand that you wish to make an explanation.

MS FOLLETT: Thank you. During question time Mr Collaery, with all his usual innuendo, veiled threat and so on, alleged that I had in some way misused public resources in relation to a recent letter sent by me to some residents of Canberra. I am pleased to advise that it was the Australian Labor Party who paid for that exercise in total, for the paper, the printing - - -

Mr Kaine: Did they pay for the letterhead paper too?

MS FOLLETT: Yes, they did. They paid for the envelopes, the magnets, the folding, the enveloping and the postage. Absolutely no public money was used. Mr Deputy Speaker, further queries may be directed to the Secretary of the Australian Labor Party, ACT Branch, Mr Wedgwood.

Mr Jensen: Why did you use Legislative Assembly heading then?

MS FOLLETT: I had it printed.

Mr Collaery: Who gave you the right to print our letterhead?

Mr Moore: She has the right to use it as a member, for heaven's sake.

MS FOLLETT: I am a member.

T.A.F.E. - RESPONSE TO THE RECOMMENDATIONS OF WORKING PARTY TO REVIEW THE PROVISION AND FINANCIAL MANAGEMENT
Ministerial Statement and Paper

Consideration resumed from 11 December 1990, on motion by **Mr Kaine**:

That the Assembly takes note of the papers.

Question resolved in the affirmative.

POISONS AND DRUGS (AMENDMENT) BILL 1990

Debate resumed from 13 December 1990, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR BERRY (4.03): The Poisons and Drugs (Amendment) Bill revises schedules 1 to 7, inclusive, of the Act to reflect the recommendations of the National Health and Medical Research Council on uniform scheduling of drugs. The Labor Party has consulted with relevant constituents in relation to the matter and we will be supporting the Bill.

MR MOORE (4.04): I also would like to indicate my support for the Poisons and Drugs (Amendment) Bill. It makes particularly good reading for people who are interested in the pronunciation of some of the most difficult words. I remember some mirth in this house when it was introduced. The names of some of the substances that we are talking about were pronounced by Mr Humphries and he did an absolutely valiant job under the most difficult of circumstances. Those of us who do not have a background in biochemistry or medicine always find it difficult to deal with these. I found it particularly difficult.

It is quite clear, Mr Deputy Speaker, that we rely heavily on the NHMRC in setting standards across Australia and in matching our standards, and it is quite important that we can continue to do so. I think it is also important to note that the various drugs mentioned in the schedules are an important part of the family medicine chest, and so forth. Those of us who get used to the idea of drugs being recorded as S1, S2 and S3 have an interest in ensuring that we are particularly careful in the way we deal with them.

There is one issue that I would like to raise as part of this debate. It relates to the labelling of drugs that are commonly available in the home, drugs that find their way into medicine chests, whether through prescriptions as appropriate or by purchase from the pharmacist or veterinary surgeon. We ought to have some assistance in being made aware of just what the S1, S2, S3 categories

and so forth mean. I think that will be an important issue for us to deal with in making sure that people actually understand those particular issues. Should we encourage the manufacturers to indicate what they are, or does it come to a point where we actually are forced to legislate on it?

I favour, in the initial instance anyway, suggesting that that is a matter that we are considering and that manufacturers should consider what they can do. If that is not successful there may be some reason for us to legislate in that regard. The Bill is very straightforward. It is a necessary amendment to bring us into line with the NHMRC recommendations, and I am quite happy to support it.

MR STEFANIAK (4.07): Medicines play an integral part in the treatment and management of disease. Their successful use relies on rational application while they remain appropriately accessible to the public. Accessibility and controls on the use of pharmaceuticals are a Territory responsibility, and similar mechanisms of control apply in all parts of Australia. These controls are based on the recommendations of the National Health and Medical Research Council.

One of the council's recommendations is that terfanidine be available from pharmacists without a doctor's prescription. Studies have shown that this drug causes less drowsiness than the other antihistamines. Easier access will mean that, in addition to terfanidine joining other antihistamines which can be purchased without prescription, an antihistamine with minimal effects on motor skills will be readily available to drivers. This must be a desirable development in the management of hay fever.

For similar reasons an anti-inflammatory analgesic, which has been on prescription for a number of years and has been widely used overseas without prescription, will be available from pharmacies without a medical consultation. This will mirror the current situation in New South Wales over the last 12 months. The drug ibuprofen is especially valuable for the temporary relief of mild pain where inflammation is present and it is very useful for the management of minor sports injuries.

Conversely, it is appropriate that archaic treatments be restricted - for example, crystal violet, commonly known as gentian violet, has been widely used in the treatment of superficial skin infections. This chemical will, in future, be available only on a doctor's prescription, following evidence that crystal violet may be toxic.

Similarly, the sedative chloral hydrate will be available only on a doctor's prescription. This is sensible because of the continuing and widespread abuse of hypnotics and sedatives in the community and the reported increased level of misadventure in its use interstate. I wish to emphasise, however, that there are alternatives to these two drugs - povidone-iodine or one of the imidazoles - - -

Mr Humphries: What was that?

MR STEFANIAK: Sorry. I was about to say that the next time you go away I could be the Acting Health Minister because I am pronouncing these things properly, but I did stumble on that one.

There are alternatives to these two drugs - povidone-iodine or one of the imidazoles in the case of crystal violet, and relaxation therapies in place of chemical sedatives - which are examples of more restrictive scheduling to better protect public health. They will, of course, still be readily available if a medical practitioner decides that they have a use for the treatment of individual patients.

MR HUMPHRIES (Minister for Health, Education and the Arts) (4.10), in reply: I think it is worth commenting that the two Bills presently before the Assembly relate to the updating of the ACT's scheduling of drugs to bring it into line with a national program to harmonise the scheduling of drugs. This apparently is only a small and technical step towards the better administration of drugs. I think it should be noted that to have such legislation enacted does bring the ACT further down a path on which it has lagged for some time.

I do not need to remind members of this place that the ACT has lacked appropriate legislation in this and related fields for quite some time. It is most disturbing to see that the ACT's legislative framework should have been so neglected over so many years.

I was one who believed that the ACT was generously and assiduously taken care of by the Federal Government; but the state of legislation in the ACT was a rude reminder that that was not the case and that there are many areas in which the ACT's legislation, in a technical sense as well perhaps as in a substantive sense, has been wanting. This is one such area. We, as a Government, have a strong commitment to the policy that there should be consistency and harmonisation in the scheduling of drugs throughout Australia. In line with the National Health and Medical Research Council's recommendations, this proposed updating of the ACT poisons list aims to achieve this consistency.

Drug schedules obviously are lists of drugs that are categorised according to a number of factors, such as proposed use, potential for abuse, safety in use and the need for the substance. Certain categories of drugs are available to the general public without prescription and, of course, others require a doctor's prescription to be obtained.

The National Health and Medical Research Council obviously has been central in providing leadership in the standardisation and harmonisation of drugs throughout this country. The role of the NHMRC, as a peak advisory body in

this area, has been discussed in this place before, and will be discussed again, I have no doubt, when the Assembly comes to consider the report of the Standing Committee on Social Policy on fluoride. Whatever the merits of the council's work in the area of fluoride, I have to say that its work in the area of drugs and poisons has been important. Its importance for the ACT, of course, is reflected in this legislation - legislation which will mean that the ACT will be among the first jurisdictions to be completely up to date with guidelines laid down by the National Health and Medical Research Council. From being the last in many respects in the past, hopefully now we will have some chance to be the first.

Amendments to the Poisons and Drugs Act of 1978 are designed to safeguard public health by dealing with all poisons which have an impact on health. As members can see by looking through the schedules, there are a great many, and the list grows all the time. The effect of these amendments is to repeal the drug schedules in the Poisons and Drugs Act and to substitute new schedules, and obviously the Drugs of Dependence (Amendment) Bill similarly amends the schedules to that Act.

Mr Stefaniak has indicated that the important role played by medicine in our society requires increasing and vigilant monitoring of the way in which such chemicals and drugs might impact on people who use them. It is obviously important to ensure that we remain informed and that warnings and guidelines for the use of chemicals and drugs are such that individuals are at the least possible risk of suffering injury or harm.

The successful use of pharmaceuticals depends on appropriate access to those pharmaceuticals. The regular revision of drug schedules and legislation such as this not only helps protect the health of the general populace but also allows there to be a control over the access to commonly abused prescription and non-prescription substances. We have to acknowledge the rather alarming tendency towards abuse in our community, particularly by the very young. Where more restrictive scheduling has taken place to help safeguard public health, there are alternative drugs and therapies available. These restricted items would, of course, still be available to the patient if a medical practitioner deems the use of those sorts of drugs necessary.

There are many items involved in this current set of amendments as the last update to the schedules in the ACT was on 21 December 1988. A lot has happened in the two years since the last amendments to this Act occurred. I think, Mr Speaker, that we need to be aware that such amendments will be coming forward on a regular basis, perhaps annually, to ensure that the ACT remains at the forefront in this area. Obviously, with our proximity to New South Wales, there are dangers where different regimes apply in the ACT and New South Wales, and the sooner that

we provide a standardisation that affects both jurisdictions the better off certain residents of the ACT will be.

I commend this Bill to the house. I take it that there are no amendments from those opposite. I trust that this and the other Bill will fulfil their purpose adequately and quickly.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

DRUGS OF DEPENDENCE (AMENDMENT) BILL 1990

Debate resumed from 13 December 1990, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR BERRY (4.18): Mr Speaker, this amendment Bill merely adds to schedule 1 of the existing Drugs of Dependence Act. It implements the recommendation of the Williams Royal Commission of Inquiry into Drugs in 1980 and the United Nations Single Convention on Narcotic Drugs. The Opposition will be agreeing to it.

MRS NOLAN (4.19): The making of the Drugs of Dependence Act 1989 represented a major reform for the ACT's antiquated and inadequate drug laws and took the Territory to the forefront of Australian drug regulatory measures. The Act covers 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.

Drugs in schedule 1 to the Act are drugs of dependence which have legitimate medical applications 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 safekeeping, monitoring and recording of all legitimate prescriptions are adhered to and that the drugs are not diverted for illegal use or abuse.

The drugs in schedule 2 to the Act are prohibited substances and include items such as heroin, cannabis and LSD which do not have a medical use and are harmful when used for recreational purposes. The reason for the amendment is to update these two schedules to reflect the recent changes in the chemical name for the two substances and to add a further two substances to schedule 1. Both of

these changes are as a result of Australia's participation in World Health Organisation drug control agreements. It is also timely to correct a printing error in the principal Act and to exempt two barbiturate preparations used for anaesthesia in accordance with recommendations of the National Health and Medical Research Council and to mirror the situation in New South Wales.

By way of further explanation, the substances MPPP and PEPAP are so-called designer drugs produced by making small alterations in the molecular structure of known control drugs. If not scheduled, the resultant designer drugs are technically legal to make and use. Ethylamphetamine and phendimetrazine are two amphetamines which are not currently marketed in Australia but have been scheduled in accordance with international agreements. The amendment relating to thiofentanyl is to correct a typographical error. I wish to assure the Assembly that these amendments will not affect current medical practice in the ACT and should be of assistance to drug law enforcement.

MR HUMPHRIES (Minister for Health, Education and the Arts) (4.21), in reply: Mr Speaker, I thank those who have contributed to this debate - Mr Berry and Mrs Nolan - and I congratulate Mrs Nolan for having the courage to quote some of the long and complicated drug names which appear.

Mrs Nolan: As someone who does not believe in drugs.

MR HUMPHRIES: Particularly as someone who does not believe in drugs. It was a remarkable achievement. I was rather counting on having Mr Berry get his tongue around some of these exciting sounding names in the various schedules to this amendment Bill.

Mr Berry: I have other important information-sharing duties to perform, Gary.

MR HUMPHRIES: I am sure Mr Berry has very important duties of some kind or other, but I was rather looking forward to his attempting to pronounce glutethimide, galanthamine, fosfestrol, and so on and so forth, Mr Speaker. Perhaps he would have been even interested to pronounce "follicle-stimulating hormone (animal)". I am sure that in these schedules there is something for everybody.

Mr Speaker, I want to emphasise the importance of this legislation as a contribution to the updating of the ACT's armoury in this area, to ensure that we have proper protection or provide proper protection for citizens of the Territory, and that they have at their disposal a comprehensive and adequate legislative framework to ensure that risk is minimised. It has not been the case in the past, or at least at various times in the past, and we have to be glad that we are able today to pass this legislation. I commend the Bill to the house.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

WESTPAC DOCUMENTS
Speaker's Ruling

MR SPEAKER: On Tuesday evening Mr Moore sought leave to table certain documents in the Assembly. I ruled that he could not do so on the basis that they were sub judice and, after a request from Mr Moore, later undertook to reconsider the matter.

The sub judice convention is summarised at pages 491 to 495 of *House of Representatives Practice.* A summary of the convention is this: Subject to the right to legislate on any matter, those matters awaiting adjudication in a court of law should not be brought forward in debate, motions or questions.

The sub judice convention is a practice, not a law. It is self-imposed and by applying this restriction legislatures not only prevent their own deliberations from prejudicing the course of justice, but also prevent reports of their proceedings from being used to do so. This is my major concern in this case. The Chair's discretion in these matters must be considered against the right and duty of the Assembly to debate matters of public interest. The question of sub judice is certainly a difficult one, and it is clear that differing views can be and are held.

The matter that is the subject of the documents is banking and the actions of one bank. The two major documents are advices from a law firm to Westpac Banking Corporation. I believe that these are the same documents which have been referred to in the media recently, and which the President of the Senate ruled upon on Tuesday evening. The documents are the subject of several interlocutory injunctions preventing their publication by the media.

I have considered the issues involved and have concluded that the disclosure of these documents to the Assembly and their subsequent publication elsewhere could prejudice one of the parties before the courts. I do not make this ruling lightly. I have balanced the rights of the Assembly and the public interest against the interests of justice and at this stage in the legal proceedings I do not believe that disclosure of the contents of the documents in the Assembly at this time would be prudent. I therefore confirm my earlier ruling that the documents are not to be tabled nor their contents disclosed in the Assembly.

MR MOORE, by leave: Thank you, Mr Speaker, and thank you, my parliamentary colleagues. I appreciate the effort and the time that you have taken to come to this conclusion. It clearly is a difficult matter and a difficult conclusion to come to. The press has revealed - I wonder how - that the advice given to the President of the Senate by his Clerk was in fact contrary to the decision that he made. This indicates the fine line there is in dealing with matters of sub judice.

My concern, Mr Speaker, is that I see around this set of documents a very clear and important public interest. We must look very carefully at the distinctions between legality and justice. In your statement of a few moments ago you indicated that it is important to ensure that the litigants have a fair and reasonable approach before the courts. One of the factors that you have taken into consideration is the concern that one of the litigants may, in some way, be advantaged over the other.

The documents themselves, Mr Speaker, reveal quite clearly that the powerful Westpac Bank intends to use their size, their money and their power in order to ensure that litigation can go on for such a time as to disadvantage the other litigants. Whilst that might be legally above board, ethically, in terms of justice, there is no justice. It is time for this Assembly to bravely take a step for justice and for us to ensure that these documents are made publicly available so that in the interests of the people of Australia the matters that have been raised in this way can be dealt with. In the long term I would hope that they will be dealt with by a royal commission.

Following the statement I made in the adjournment debate last night, Mr Speaker and members of the Assembly, there has been a flood of phone calls to my office indicating that it is not just the Westpac Bank and PPL, their wholly owned subsidiary, that have been involved in the sorts of issues that I spoke of last night. It extends beyond them to other banks as well. I have seen no evidence of that and, therefore, I do not wish to name the other banks, and I do not intend to. Some of the callers have indicated that they will provide me with the evidence and when they do I certainly will use every method within my power to make it public. I suggest that the indications are that this is the tip of the iceberg and that, in the public interest, we ought to ensure that these documents are made public. With that in mind I would like to move this motion, which I am quite happy to have distributed. The motion reads:

> That this Assembly, in the interests of the community, override the decision of the Speaker and that the Assembly:
>
> (1) order the tabling; and
>
> (2) authorise the publication
>
> of the two letters of Allen, Allen and Hemsley, dated 25 November 1987 and 11 December 1987, to the Chief General Manager of Westpac.

MR SPEAKER: Members may wish to look at the motion, but you do need to seek leave of the members of the Assembly to move that motion.

MR MOORE: I see. Mr Speaker, perhaps at this stage I will just distribute the motion. I will hold back on seeking leave to move the motion until the members have had a chance to look at it. In the meantime I will point out, as part of my speech, that in no way do I intend this to be seen as seeking to undermine the decision of the Speaker. I started my speech by saying that I respect his decision. I see it as a fine line, and I respect the effort he has made to make the decision. It is not meant in any way to be a motion that indicates a lack of confidence in the Speaker, but rather to provide an opportunity for members of the Assembly as a whole to take a small, specific issue, as far as the rulings of the Speaker go, and have the courage to take a decision which will have wide-ranging ramifications for all Australians.

It is quite clear that the very powerful banking organisations that we have in Australia are almost unequalled in the amount of power that they can have. They are incredibly advantaged in the courts. There is no question in the minds of most Australians that the wealthier you are the greater the advantage you have in front of courts. In this case we have the opportunity to make a move for justice as opposed to the legal system.

Mr Speaker, under those circumstances I have decided to seek leave to move this motion, even though, at the same time, I respect the effort and the time that you have taken in coming to the conclusion that you have. I think it is an appropriate situation for each and every one of us, as members, to look very carefully at the sub judice convention and see whether this is an appropriate time to make a move in the interests of the small person in our society, in the interests of justice.

As you yourself said, we follow the sub judice convention in *House of Representatives Practice.* It is by no means clear cut, or black and white, that we will be breaching a sub judice convention. I quote from that volume part of the first sentence of what is said about the sub judice convention. It states:

> Notwithstanding its fundamental right and duty to consider any matter if it is thought to be in the public interest -

there are very few matters that have come before this Assembly that are of such great public interest -

> the House imposes a restriction on itself ...

We do not have to impose that restriction on ourselves because the matter is of such great public interest. It is so important that this matter should be raised in the public domain and be debated further. As I would see it in the long term, the investigation of this matter should get well beyond that of a parliamentary committee; it should go to a royal commissioner. It is ironic in a way that just today we have passed a Bill relating to inquiries of that nature.

Debate interrupted.

ADJOURNMENT

MR SPEAKER: It being slightly past 4.30, I propose the question:

That the Assembly do now adjourn.

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

Question resolved in the negative.

WESTPAC DOCUMENTS
Speaker's Ruling

Debate resumed.

MR MOORE: On a point of order, Mr Speaker: I had indicated that at the end of my speech I would seek leave to move this motion. I believe that this would be the appropriate time to do so, would it not?

MR SPEAKER: Yes.

Leave granted.

MR MOORE: Thank you, Mr Speaker. In that case I move:

That this Assembly, in the interests of the community, override the decision of the Speaker and that the Assembly:

(1) order the tabling; and

(2) authorise the publication

of the two letters of Allen, Allen and Hemsley, dated 25 November 1987 and 11 December 1987, to the Chief General Manager of Westpac.

Mr Speaker, having spoken for so long, I will speak no more on this, but I retain my right of reply.

MR COLLAERY (Attorney-General) (4.36): Mr Moore's motion puts the Assembly in a difficult position; but, of course, he is an elected representative and is standing, as of right, to raise what is, on his contention, an issue of extreme public interest.

Mr Speaker, there are two limbs to the reaction so far as the Government is concerned in this matter. The first is that there has to be a proper balance between the separation of our role and that of the judiciary. As you have rightly pointed out, Mr Speaker, from *House of Representatives Practice,* actions which may bring into disrepute the relationship between the legislature and the judiciary are issues of very great concern to any parliament.

Parliaments jealously protect their rights and, of course, there are comparable restrictions on the judiciary. None of us, for example, can be arrested and detained by court order within the precincts of this house. Equally, the courts expect that we will not invade their province during continuance, at or about the commencement of a proceeding. Of course, Mr Speaker, action in this matter commenced in the courts of New South Wales and the matters outlined at page 491 of *House of Representatives Practice* are engaged. The quite proper reaction of the house should be to observe the sub judice convention. It is what it says; it is a convention; it is a self-imposed rule of restraint. It should be one that we adopt here this afternoon on this matter.

At the other end of the spectrum there is equally a matter that all members should consider, and that is that behind the structure of an ordered society is the working of the courts and those who appear before them. Those who appear before a court are barristers and solicitors. They all are regarded as officers of any court in which they appear. Their function is to aid the evolution of justice. Those officers, themselves, must be able to deal candidly and freely and lawfully with their clients, and that raises the notion of legal professional privilege. As I understand it, this is a major issue as well in the proceedings before the court in New South Wales.

Mr Speaker, the Assembly has to respect the structure of the judiciary. Underpinning the judiciary is the right of fearless advocacy and that cannot occur when privileged communications between solicitor and client are made available across the floor in a contested situation. Members here would be loath, for example, to allow into the record the secret recordings of a confessional. That would be found repugnant, whether or not we are religious, except for a situation where the events in a confessional are themselves criminal.

At this stage there is no evidence available to this house that the matters in issue before the courts in New South Wales engaged not only the questions Mr Moore puts about the public interest in that banker/borrower relationship but also the other issue, if there is substance to Mr Moore's allegations, or Mr Moore's implications from his statement, that there is something untoward in the relationship between Westpac and its lawyers.

Mr Speaker, it would be quite improper, in my view, at this stage, for this Assembly to make a decision on this motion. I foreshadow that, unless someone else does it, one of my colleagues will move a motion to adjourn Mr Moore's motion at this stage simply because, to start with, I do not have the Westpac papers, the communications, for and against, with me in the chamber. I did not have adequate notice of Mr Moore's motion - not that he is obliged to provide that to me.

Mr Speaker, I stress again that the Government might reconsider its position on the issue of public interest and legal professional privilege were a court or were the Government to be apprised of any issues that suggested that the matter of public interest and issues of legal professional privilege would be outweighed by evidence of an impropriety in those relationships I have referred to. So, Mr Speaker, I oppose the motion at this stage and I foreshadow that the Government will move to adjourn this matter.

MR CONNOLLY (4.42): Mr Speaker, parliamentary privilege is a very great privilege, but it carries with it a very great responsibility. It would be most improper for members of a parliament protected by that privilege to abuse that power. The sub judice rule is not so much a rule of law perhaps as a convention. There has been a continuing debate in English and Australian constitutional history as to who is supreme - parliament or the courts. The sub judice rule, effectively, is parliament not saying to the courts, "You are supreme", but saying, "We will respect your affairs and not use our privilege to interfere in them".

On this issue of the Westpac documents, the Opposition's inclination at this stage is similar to that of the Government. I have not had the benefit of seeing an opinion that I understand has been prepared by Mr Charles, of queen's counsel, for Westpac. The Attorney-General has indicated that he will make that available to us. I welcome the Government's indication that this debate will be adjourned so that we can look more carefully at it, but I do want to say from the Opposition's point of view that the argument should not be accepted that legal professional privilege is some privilege enjoyed by the legal profession and that the public interest is something to be weighed against legal professional privilege.

Legal professional privilege, Mr Speaker, is a privilege of the client, of the citizen. It is your right when you go to a lawyer and seek counsel to have total privacy on the advice that is given to you. The reasons for that are obvious. If there was not that right of total privacy in the advice that you get from a lawyer, a lawyer would be reluctant to give you frank and honest advice, and that would act to the very severe detriment of any person seeking legal advice. Any of us, any citizen of the ACT, who consults a lawyer and obtains advice, would be horrified if in this place that advice were tendered and

published. Every citizen has a right to that confidentiality in counsel, and that is a right more of the citizen than of the legal profession. So it should not be portrayed that the view of the Government, which is shared by the Opposition, is somehow pandering to the legal profession. We are, on the contrary, asserting an important right of the citizen.

Mr Speaker, I do not want to make any more remarks at this stage. As I say, I think the responsible course is to adjourn the debate, as the Attorney indicated. We will look at the documents and look at the legal advice; but as advised at present our inclination would be that the sub judice rule is important, and the principle of legal professional privilege as a right of the citizen, not the legal profession, is also important.

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

PERSONAL EXPLANATION

MR MOORE: Mr Speaker, I seek to make a personal explanation under standing order 46.

MR SPEAKER: Please proceed, Mr Moore.

MR MOORE: Thank you, Mr Speaker. Mr Collaery suggested in his speech that there was a possibility that I made an allegation of untoward behaviour in some way between the solicitors Allen, Allen and Hemsley and Westpac. I believe that at no stage have I made any allegation about the relationship between that firm of solicitors and barristers and Westpac.

ADJOURNMENT

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

> That the Assembly do now adjourn.

Black Mountain Fire : Hydrotherapy Pool

MR BERRY (4.45): Members will have smelt the smoke through the building this afternoon. It arises, of course, from a large fire over on Black Mountain. I just ask members to spare a thought for - I do not know in which priority order to give these things - the environment, the forest around Black Mountain, people's property and the CSIRO, but particularly the firefighters and all the other emergency workers such as the police and ambulance officers who,

hopefully, will not have anything to do, who are involved in that fairly major blaze. It is worth while for people to just reflect on it for the moment, I think.

I would like to raise one other issue, which is serious as well but for individuals. Yesterday I was accused of disinformation or misinformation about the hydrotherapy pool at Royal Canberra Hospital South. Today I would just like to draw attention to a letter that was sent to Mr Humphries on 8 February. It talks about a patient who uses the services provided at Royal Canberra Hospital South. Mr Humphries was not able to put to rest the rumour that the closure of the pool was imminent. These people are very concerned about it because it does provide a service for people who are in some difficulty in their lives - people who are significantly worse off than anybody in this place. I think they deserve to have any rumours of the closure of that facility put to rest. They need to be assured by the Government that the hydrotherapy pool and the facilities there will be available for the foreseeable future.

I do not think this matter needs much explanation. People who are disabled need the therapy provided there. They are in need of the service and should continue to get it. In this adjournment debate I call on the Minister to put to rest any speculation that the pool might close. If he can do that I am sure I will be very happy to advise my constituent of his denial that the pool would close.

MR SPEAKER: Thank you, Mr Berry. Just before we proceed, Mr Humphries, following on from Mr Berry's statement on the fire, the Police and Fire Brigade have advised that the following streets are closed: Parkes Way, Clunies Ross Drive, Lady Denman Drive and Barry Drive.

Hydrotherapy Pool

MR HUMPHRIES (Minister for Health, Education and the Arts) (4.49): Mr Speaker, I have to respond to Mr Berry's comments.

Mr Berry: I just quoted from a letter, Gary. It is a letter to you, by the way.

MR HUMPHRIES: A letter from me?

Mr Berry: No, it is a letter to you.

MR HUMPHRIES: Fine. I look forward with interest to reading Mr Berry's letter but - - -

Mr Berry: No, it is a letter from a constituent to you. I was sent a copy as well.

MR HUMPHRIES: I look forward with interest to reading that letter. I have not seen it myself yet; but, if the letter to me indicates some information or reason why the hydrotherapy pool is about to close or is under threat, I will be very happy to consider the evidence of that fact. But I will almost certainly be assuring that correspondent, when I write back, that the Government has made no plans, and has no plans under consideration, to close the hydrotherapy pool.

I have not seen this letter that Ms Follett is flashing around. If it contains information that proves that the thing is about to close, that is fine.

Mr Berry: I do not want you to table it.

MR HUMPHRIES: I will not table it. I have not read the whole letter, of course, but it talks about rumoured alternatives for current pool users. I cannot take the time of the Assembly to read it while I am standing, but it is not clear to me what the basis of this concern is. It is true, I think, from memory, that the hydrotherapy pool closes for maintenance annually around Christmas time, when the use is lowest. Of course, that may be a reason why this person has written in with some concerns. I will be looking at this letter and replying to it, but I will be assuring this person that the Government has no plans under consideration to close the hydrotherapy pool.

It would seem to me that the pool is an important part - indeed a vital part - of services offered for a range of patients in the Royal Canberra Hospital South, and in those circumstances it is hard to see how it could possibly not continue to be provided. So I am not going to offer the categorical, point blank assurances that Mr Berry seeks. I have indicated that I will not give those sorts of assurances, because seeking them amounts to fishing. But it is equally a contempt for the people of the ACT if anybody in this Assembly goes out to the public of this community and says, "We believe that your hydrotherapy pool is under threat".

Mr Berry: I asked you yesterday and you could not tell us.

MR HUMPHRIES: What I have said to this place, and to Mr Berry, gives absolutely no indication of any plans or any intention on the part of this Government to close the pool, and in those circumstances for Mr Berry or anybody else to say that there is some risk to the pool is callous and - - -

Mr Berry: I have not done that; I just asked you a question.

MR HUMPHRIES: I accept that you have not done it, and I sincerely hope that you do not because, to be quite frank, I have seen evidence in the past of claims by the Opposition that things were going to happen on the basis of

my refusal to categorically deny them in this place; and I have seen such things cause considerable damage and harm to people out in the community - people who have suffered because of the Opposition's muckraking on those sorts of issues. I gratefully accept that assurance that Mr Berry does not have any intention of doing it in this case, and I can assure Mr Berry that I will bring back to this house at the earliest opportunity any intentions the Government might have to deal with any important facilities in Canberra, for complete discussion in this place as is appropriate.

Planning, Development and Infrastructure Committee

MR MOORE (4.53): Mr Speaker, in the adjournment debate this evening I would like to raise a different issue, and that is an issue to do with the committees. On Tuesday I asked a question of Mr Jensen - in fact, my first question for this session - about a reference that had been given to the planning committee. The significance of Mr Jensen's response is that the planning committee simply is not working very well at all; in fact, it is working very badly.

There were indications from the Chief Minister, just prior to Christmas, that our committee system would see some rearrangements, particularly that the problem of having Executive Deputies as chairpersons of committees would be resolved. Because of an indication from the Chief Minister, I drew back from an intention on my part to make a great deal of fuss about that particular situation. But clearly that still has not happened. I use this opportunity to call on Mr Jensen to accept that he has a conflict of interest in that regard, that it is inappropriate for him to chair that committee, and that he has failed to take on that reference and deal with it in an appropriate way. I now call on him to resign as chair of that committee.

Planning, Development and Infrastructure Committee

MR JENSEN (4.54): Clearly, Mr Speaker, I have to respond to that comment by Mr Moore. I think it is important to remember that the Planning, Development and Infrastructure Committee currently has six inquiries on the books. Seven reports, in fact, have been presented to this Assembly.

Planning legislation, as I indicated in my reply yesterday, is a very important part of the process of the committee. In one particular inquiry, which is in the process of being completed, we received over 50-odd submissions; and it was appropriate that we clear that and get it out of the way, and that is what we are attempting to do.

Therefore, Mr Speaker, I do not accept that I have any conflict of interest, as has been suggested by Mr Moore, in relation to this particular matter. There are also other issues of concern to the committee that relate to inquiries relating to policy plan changes that also have to be looked at. It is not just a simple matter, Mr Moore, of saying, "This one must start and this one will stop tomorrow".

I think the point, as Mr Moore well knows, is also that Mrs Nolan, a member of the committee, is on, I believe, six other committees as well. It is important to make sure that members are available, and the workload that Mrs Nolan has as a member of six committees must be taken into account as well in relation to this matter, so that we can have appropriate committee meetings. I think that is all I wish to say on that matter.

Mr Speaker, I do not accept that I have a conflict of interests and I do believe that I can do my job effectively and efficiently both as Executive Deputy and also as chairman of the Planning, Development and Infrastructure Committee.

Question resolved in the affirmative.

Assembly adjourned at 4.57 pm until Tuesday, 19 February 1991, at 2.30 pm

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ANSWERS TO QUESTIONS

MINISTER FOR HEALTH, EDUCATION AND THE ARTS

LEGISLATIVE ASSEMBLY

QUESTION ON NOTICE N0. 294

Hawker and Weetangera Primary Schools - Hearing Impaired Unit

MR WOOD - asked the Minister for Health, Education and the Arts on 30 November 1990:

On 18 September 1990 in answer to a question from Ms Maser you stated:"The noise generated by the-airconditioning at Hawker Primary School when the school is in use is no greater - in fact even marginally quieter than the noise generated by the ventilation plant currently operating at Weetangera Primary."

(1) On what basis did you make such a statement to the Assembly.

(2) Was the cost of the acoustical testing carried out at the two schools in September less than $1 000.

(3) Was the consultant retained to perform the acoustical testing experienced and qualified in conducting such tests in relation to the accommodation of hearing-impaired people in an educational context.

(4) Does the Ministers Department have specialist staff qualified in the teaching of the deaf; where are these staff deployed; and were they involved in preparing the terms of reference for the acoustical testing referred to and in assessing the consultants report.

(5) Did the acoustical tests referred to test the noise levels of the air-conditioning at the two schools; - or did it test the noise responsiveness of the rooms tested; if the latter, was the air-conditioning on or off at the time of the tests.

(6) Is it possible to operate either of the two schools without the air-conditioning - in other words, are there sufficient windows to provide adequate ventilation without air-conditioning.

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(7) In view of the fact that three of the four hearingimpaired children in the Weetangera unit spend 50% of their time in fully integrated activities in the classrooms, and the other spends 100 of his time fully integrated, why did the objective acoustical testing referred to not include the classrooms where integrated activities take place now or are to take place if the proposed consolidation occurs.

(8) Is it the case that the Minister indicated to the parents of the hearing-impaired children that he would agree to the objective testing of the classrooms if they undertook to drop their opposition on all other grounds to the proposed move of the Hearing Impaired Unit to the Hawker site.

(9) Will the Minister undertake to have objective acoustical testing of the classrooms at both schools undertaken.

MR HUMPHRIES - the answer to Mr Woods question is:

(1) Ministerial staff from the Student Services Section and the Acoustical Consultants both reported to me that the noise generated by the air-conditioning reverse cycle system at Hawker Primary School, when compared with the noise generated by the fan forced ventilation system at Weetangera Primary School, did not constitute a major discriminating factor.

(2) The cost of the testing was $1 000 exactly.

(3) Acoustical Consultants in Association, Mark Eisner and Eric Taylor, are acknowledged experts in the area of acoustics and school buildings. Both have worked as consultants in the ACT and NSW and have been involved in advising both government and private school planners regarding the appropriate acoustic arrangements in schools.

(4) The Ministry does have specialist staff qualified in the teaching of the deaf. Barbara Moore, the HIV teacher at Weetangera, was consulted. The Ministry also has a HIV located at Mawson Primary School. There is also an itinerant teacher of the deaf. A Project Officer in the Student Services Section, Mr Frank Foliate, is currently reviewing the delivery of services to all hearing impaired and visually impaired students. Mr Foliate, who has been employed as a specialist in this area for the past five years, was referred to when assessing the two locations.

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(5) The acoustical tests tested the noise responsiveness of the HIV room at Weetangera and the proposed room for the HIV relocation at Hawker Primary School. Hawker has an air-conditioning reverse cycle system and Weetangera has fan forced ventilation system. The noise generated by both systems was not tested. However, both systems were operating when the acoustic testing was carried out. The consultants report stated:

"Acoustic tests were not carried out in the open plan classrooms of either school but subjectively they appeared to be similar in their acoustic environment." (page 8)

(6) Of the two schools only Hawker Primary School offers air-conditioning. Weetangera Primary School has fan forced ventilation. The question of the associated noise factors was not a major discriminator, therefore whether there are sufficient windows or not is irrelevant.

(7) The question of integration was considered but since the noise levels in the mainstream classrooms "...subjectively...appeared to be similar..." it was not a major .factor in the decision. Realistically integration should be carried out in as normal an environment as possible.

Significantly, between 1978 and 1984, a hearing impaired student completed K - 6 at Hawker Primary School. This child was successfully integrated. The cost of acoustical testing both schools was prohibitive (estimated cost $10 000).

(8)

(9) The Government has revised its decision to close Weetangera. The need to carry out acoustical testing of the classrooms at both schools is no longer necessary. The Government did not consider it necessary at the time as the acoustic suitability of the HIV areas was considered paramount.

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MINISTER FOR FINANCE AND URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 304

Consultants - Minister for Finance and Urban Services

Ms Follett - asked the Minister for Finance and Urban Services -

When may I expect an answer to question numbers 201 and 205, which I placed upon Notice on 7 August 1990.

Mr Duby - the answer to the Members question is as follows:

I have provided answers to question numbers 201 and 205.

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14 February 1991

MINISTER FOR HEALTH, EDUCATION AND THE ARTS

LEGISLATIVE ASSEMBLY QUESTION

QUESTION ON NOTICE NO 305

Free-Range Eggs

Mr Stevenson - asked the Minister for Health, Education and the Arts on notice on 27 November 1990:

(1) In response to a question taken on notice (12 September 1990) you stated "Officers of the Health Surveillance Service have investigated the matter and have advised that those eggs. purporting to be free range and packed in sealed cartons with details of the poultry farm on the seal, are legitimate free range eggs." Can the Minister define exactly what is meant by "legitimate free range eggs", and included in the definition: (a) how many hens are there per acre; (b) whether chickens are debauched or not; and (c) whether chickens are vaccinated.

(2) Is the poultry farm packaging legitimate free range eggs located in the ACT.

(3) Is the farm which packs eggs that are sold in the ACT run by Mr Frank Pace or Mr Mark Moncrief.

(4) Can the Minister advise if the poultry farm supplying legitimate free range eggs has the endorsement of Animal Liberation; if not, why not.

(5) Is it an offence in the ACT to sell battery hen eggs as free range.

(6) Will the Minister investigate to make sure that ACT consumers are not being deceived by being sold battery hen eggs as free range.

Mr Humphries - the answer to Mr Stevensons question is:

My officers in conjunction with the Consumer Affairs Bureau have investigated the matter you raised in your question on free range eggs and have provided the following information:

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(1) When the egg industry was regulated in NSW a system existed to certify free range egg farms and to supply them with special cartons and wrappings so that their eggs could be identified as "legitimate free range eggs".

Since deregulation the system has broken down and the certification scheme no longer exists.

However a set of guidelines has been produced for the guidance of growers, retailers and consumers which has been officially endorsed by the NSW Departments of Agriculture and Fisheries, Business and Consumer Affairs, and Health. The NSW Department of Health has signified its willingness to use the guidelines as a basis for prosecuting organisations selling free range eggs which breach its provision.

These guidelines set criteria fox such things as housing, feeding and provision of foraging space for the hens. The stocking rate should not exceed 600 birds per acre. No mention is made concerning debeakting or vaccinating the birds. However, commercial egg producers are likely to purchase their birds from large scale hatcheries who all vaccinate their chicks.

NSW producers have recently formed a "Free Range Egg Producers Association" which has developed detailed plans for a more stringent self-regulatory system for certifying free range egg producers. These plans will include inspection of properties and the issue of egg cartons based on the numbers of free range hens owned so as to prevent the substitution of battery hen eggs for free range ones.

2. There are no large producers of free range eggs in the ACT. There is only one registered commercial operation in the ACT and this produces battery hen eggs. "Free range eggs" sold in the ACT are either imported from interstate or are supplied by small unregistered producers.

3. Mr Pace and Mr Moncrief are both egg producers in NSW. Their organisations gained certification as free range egg producers under the old system and their present operations may or may not comply with the new NSW guidelines.

4. Under the present NSW system there is no provision for Animal Liberation to endorse or reject producers supplying "free range eggs".

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5. It is an offence in the ACT to sell battery hen eggs as free range as this would breach the provisions of the Commonwealth Trade Practices Act relating to misleading and deceptive conduct (s52) and false representations (s53).

6. A preliminary investigation by Consumer Affairs officers has failed to produce any evidence of fraud concerning the misrepresentation of battery hen eggs as free range and the Consumer Affairs Bureau has not received any complaints from consumers about such practices occurring in the ACT.

The Trade Practices Commission is currently producing a code of practice on Claims in Environmental Marketing which will cover this matter.

Nevertheless, in view of the importance of the matter I am referring it to my colleague the Attorney-General with a request that the ACT Consumer Affairs Advisory Committee consider the issue as part of its enquiry into environmental marketing, and secondly that the Consumer Affairs Bureau undertake continuing investigations in the marketplace.

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