DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

14 March 1991

Thursday, 14 March 1991

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Thursday, 14 March 1991

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

OCCUPATIONAL HEALTH AND SAFETY (AMENDMENT) BILL 1991

MR KAINE (Chief Minister) (10.31): Mr Speaker, I present the Occupational Health and Safety (Amendment) Bill 1991. I move:

That this Bill be agreed to in principle.

The Occupational Health and Safety Act 1989 has the promotion and improvement of standards for occupational health, safety and welfare as its principal objective. When the Act was enacted it was anticipated that the Commonwealth Government would amend the Industrial Relations Act 1988 to allow a reviewing authority to be established to examine decisions made by the registrar of the Occupational Health and Safety Inspectorate.

This did not occur. As a result the review system referred to in the Act has not been used and there has been no adequate method of appeal from decisions under the Act. This is clearly an undesirable result, as reviewable decisions relate primarily to working conditions which, if not addressed by the mechanism provided under the Act, may be taken up in a more confrontationist manner in the industrial relations arena.

To address this problem the Occupational Health and Safety (Amendment) Bill puts in place a review authority before which appeals may be heard. It establishes the authority, determines its constitution and powers, provides protection for the authority and those who appear before it, determines the method by which parties will be informed of and may join a proceeding, and establishes a method of appeals from it. The Bill provides a reporting mechanism by which the ACT Legislative Assembly will be kept informed of the activities of the review authority. Importantly, the review authority will be constituted by a member of the Australian Industrial Relations Commission appointed by the president of the commission.

Apart from the economies flowing from the formation of a review authority staffed by members of the IRC, this arrangement has the advantage of reposing the function with an existing expert body whose authority is well respected

and understood by all industry partners. The Bill further amends the Occupational Health and Safety Act in two areas. The first is to provide for paid leave for health and safety representatives and deputy health and safety representatives to attend training courses necessary for their positions as representatives. The second is to provide that an injury which is required to be reported under the Act does not have to result from an accident but may also occur as a result of an illness or disease contracted at work. I present the explanatory memorandum for the Bill.
Debate (on motion by **Mr Berry**) adjourned.

CITY AREA LEASES (AMENDMENT) BILL 1991

MR KAINE (Chief Minister) (10.34): I present the City Area Leases (Amendment) Bill 1991. I move:

> That this Bill be agreed to in principle.

As members will recall, on 22 February 1990 I released to the media details of the Government's new policy on betterment charges. Those charges apply to all applications lodged in the ACT Supreme Court on or after 22 February 1990 for variations to lease purpose clauses under section 11A of the City Area Leases Act of 1936. The new charges take into consideration not only the time since the date of grant of the lease to be amended but also whether the lease was granted as a full charge grant, a concessional grant, or a grant free of charge.

The greater the concessions of the lessee, the greater the proportion of the added value resulting from the change in the purpose clause that should be borne by the lessee and not the community through lost revenue. The proposed planning and land use legislative package, currently released for public comment, will provide for the imposition of betterment charges on the new basis. However, as things stand, until such time as that legislation commences, for matters coming before the Supreme Court, betterment must be assessed in accordance with the existing provisions of section 11A of the City Area Leases Act. Broadly that means that lessees would continue to pay 50 per cent of the added value of the lease as a result of the lease purpose change.

To give effect to the announced changes, the Bill amends section 11A of the City Area Leases Act to provide that, in respect of applications lodged on or after 22 February 1990 in respect of which the Supreme Court has not made a provisional order, betterment will be assessed in accordance with the City Area Leases (Betterment Charge Assessment) Regulations. Applications to which the Bill does not apply will continue to be assessed under the former provisions of section 11A of the City Area Leases Act.

The regulations will require the Minister to determine the added value of a lease as a result of the proposed lease clause change applied for under section 11A of the Act. Added value will be described in the regulations as the amount by which the unimproved value of the lease, with the clause changed, would exceed the unimproved value based on the existing clause on the date on which the Supreme Court makes a provisional order.

Under the Bill, the betterment charge payable will be the added value less any remission applicable to the particular lease. The remission is based on the age of the lease and whether it was granted at full charge, as a concessional lease or as a grant free of charge. Rates of remission will be set out in the schedule to the regulations.

The Bill and regulations will combine to give full effect to the new policy on betterment charges. The Bill amends subsection 11A(1) of the Act to provide that the Supreme Court may, upon application by the lessee, amend any provision of a lease. The removal of the limitation of this section to variation of lease purpose clauses allows leases to be varied by judicial process in the same way that they will ultimately be amended by administrative process under the proposed land administration Bill.

The City Area Leases (Amendment) Bill also provides, in a manner consistent with the policy change announced on 14 December 1990, for restrictions on dealings in respect of concessional leases. A new section 11D is to be inserted into the City Area Leases Act to require that a concessional lease may not be transferred or assigned without the consent of the Minister.

Under the new section 11D, consent to such a transaction will be given if the Minister is satisfied that the applicant lessee has paid a premium. That premium is calculated by determining the market value of the lease, on the assumption that the transaction is approved, and subtracting an allowance for any capital sum paid to the Treasury in respect of the original grant of the lease or where, since the grant of the lease, the rental liability has been paid out.

The Bill provides for notice of the determinations of market value and of the premium payable to be given to the lessee. The exemption to the above requirement is that a lease granted for community purposes may be transferred to a community organisation similar to the lessee upon payment of the determined fee. The Bill makes clear provision for review by the Administrative Appeals Tribunal of amounts determined for the purpose of calculating betterment charges, or premium payable, in terms similar to the existing section 11B of the City Area Leases Act.

The Bill also provides, in terms similar to the existing section 11C of the City Area Leases Act, for the adjustment of betterment charges or premiums following review by the tribunal. The Bill and regulations will serve to bring into operation the Alliance Government's policies on betterment charges and concessional lease administration, pending the passage of the proposed planning and land management legislative package. I present the explanatory memorandum for the Bill.

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

CRIMINAL INJURIES COMPENSATION (AMENDMENT) BILL 1991

MR COLLAERY (Attorney-General) (10.40): I seek leave to present the Criminal Injuries Compensation (Amendment) Bill 1991.

Leave not granted.

LEGAL AFFAIRS - STANDING COMMITTEE - INQUIRY INTO JURY TRIALS
Statement by Chairman

MR TEMPORARY DEPUTY SPEAKER (Mr Jensen): I call Mr Stefaniak.

Mr Moore: Mr Temporary Deputy Speaker, I move the suspension of so much of standing orders as will be necessary to allow - - -

MR TEMPORARY DEPUTY SPEAKER: Mr Moore, I have already called Mr Stefaniak.

Mr Berry: There is a bit of bias from the Chair there.

MR TEMPORARY DEPUTY SPEAKER: Order! Mr Berry, I request that you withdraw that statement.

Mr Berry: What statement was that?

MR TEMPORARY DEPUTY SPEAKER: That there was bias coming from the Chair. Mr Berry, I request that you withdraw that please.

Mr Berry: I withdraw that.

MR TEMPORARY DEPUTY SPEAKER: Mr Berry, I would appreciate your standing please. Thank you.

MR STEFANIAK, by leave: I wish to inform the Assembly that on 26 February 1991 the Standing Committee on Legal Affairs resolved to inquire into and report on: (1) the benefits or otherwise on the administration of justice in the ACT if majority verdicts in jury trials are introduced; (2) what should constitute a majority verdict in both civil and criminal proceedings; (3) the circumstances in which majority verdicts would apply; (4) the circumstances in which courts in Australian States and Territories have recourse to majority verdicts and the effect of majority verdicts in the administration of justice in those States and Territories; and (5) any other aspects of jury trials which the committee considers to be of concern to the community.

By way of brief explanation, a number of Australian States, namely, Western Australia, Queensland, South Australia, the Northern Territory and Tasmania, have majority verdicts in both criminal and civil jury trials. New South Wales is going down that track. Victoria, like New South Wales, does not have them at this stage. There has been concern in the ACT legal profession and, indeed, among a number of other people involved in the administration of justice over the years with this question. Accordingly, the committee thought it was time for the inquiry to be undertaken.

CRIMINAL INJURIES COMPENSATION (AMENDMENT) BILL 1991

MR MOORE (10.42): I move:

> That so much of the standing and temporary orders be suspended as would prevent Mr Collaery from presenting the Criminal Injuries Compensation (Amendment) Bill 1991.

I will say just a couple of words. I think it is quite appropriate for the Government under these circumstances to be able to present that Bill. I cannot see any reason why not. I do not want to see us get bogged down in that sort of bickering.

MR BERRY (10.43): This is another demonstration of the Government's inability to manage the business paper. It was unable to give proper notice on this Bill. That is why leave was denied. The Labor Opposition will support a suspension of standing orders to allow this Bill to be dealt with; but the record has to show that, again, the Minister opposite, Mr Collaery, has failed to manage his portfolio properly in the presentation of business before this house.

MR COLLAERY (Attorney-General) (10.43): Yesterday, in anyone's language, was an extraordinary day in the time of this Assembly. I did have a written notice on my desk throughout the session to advise the Clerk yesterday, but I neglected to hand it to him. If that results in the judgment that Mr Berry says, well, so be it.

Question resolved in the affirmative.

MR COLLAERY (Attorney-General) (10.44): I present the Criminal Injuries Compensation (Amendment) Bill 1991. I move:

> That this Bill be agreed to in principle.

The main purpose of this Bill is to increase the maximum award of compensation payable to the victims of violent crime. Secondly, the Bill also gives the Territory a right of subrogation to recover the compensation awarded from the offender. Thirdly, the amendments will simplify procedures regarding applications for compensation.

The Government is committed to providing just compensation to the victims of crime. The Government recently enacted improvements to the domestic violence and keep the peace legislation aimed at preventing violence in the home. I have also given the Law Reform Committee a reference to examine legislative proposals for victims' rights and reconciliation. This Bill forms part of the Government's victims package and proposes improvements to the criminal injuries compensation scheme, particularly the amount of money a victim can claim.

I now turn to details of the Bill. The Bill will increase the maximum award of compensation from $20,000 to $50,000. This measure brings the Territory law on compensation for victims of crimes into line with criminal injuries compensation legislation in a number of other jurisdictions. However, when determining the amount of compensation, the court will take into consideration the Medicare benefits received or receivable by the victim. The court already takes into account the benefits received or receivable by the victim under a contract of insurance.

The Bill will also revoke the court's discretion to refuse to determine an application if the applicant has not taken steps to enforce rights or pursue remedies. As such, the applicants will no longer be deterred by any uncertainty as to whether they could seek compensation readily under the legislation. As a means of recouping some of the costs of the scheme, it is proposed to introduce a right of subrogation in the Territory to recover direct from the assailant, or person found guilty, or on whom a positive finding of guilt has been made, any compensation paid to the applicant under the Act.

This right will be available in those cases where there is a positive finding of guilt against the assailant whose criminal conduct caused the relevant injury of the applicant or the death of the applicant's relative. The Bill also contains a number of administrative changes to streamline the operation of the criminal injuries compensation legislation. This Bill again demonstrates the Alliance Government's commitment to awarding just compensation to the victims of crime. I commend the Bill to the Assembly. I present the explanatory memorandum.

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

WEAPONS BILL 1991

[COGNATE BILL:

WEAPONS (CONSEQUENTIAL AMENDMENTS) BILL 1991]

Debate resumed from 12 March, on motion by **Mr Collaery**:

That this Bill be agreed to in principle.

MR TEMPORARY DEPUTY SPEAKER: I remind members that we have previously resolved to debate this order of the day concurrently with the Weapons (Consequential Amendments) Bill 1991. In debating order of the day No. 1, members may also address their remarks to order of the day No. 2.

MR MOORE (10.48): Mr Temporary Deputy Speaker, I remember quite clearly from my school cadet days how to strip and reassemble a machine gun, interestingly enough. It goes piston, barrel, butt, body, bipod.

Ms Follett: It goes what?

MR MOORE: I hear an interjection from the Leader of the Opposition, who obviously did not go through school cadets. Granted, my six or so years in the CMF probably reinforced some of that training, but it goes piston, barrel, butt, body, bipod. I am quite happy to take some time to explain that to you if you like. That was not the important part of the learning process at the time. The learning process was much more concerned with procedures that were designed around establishing safety - safety issues and safe use of weapons.

The original Bill that was presented to this house around a year ago required membership of a club. I found that to be an excellent idea and the reason, more than anything, was that I felt that it gave room for that sort of training. However, I accept that as a result of the negotiations with various lobby groups that went on over the last year - and I did not take a very close interest in those - this final Bill will not include that requirement, even though my personal preference would have been for it to remain.

Some issues have been raised with me about the Weapons Bill. They include a greater increase in the use of police powers than we would normally expect, but I accept in this case that the Attorney-General has presented a Bill where such police powers are necessary. Dealing with weapons is very different from dealing with other situations in our society. We are all aware that people who use weapons appropriately do not cause a problem, but weapons can so easily be used inappropriately.

The reality is that weapons are designed quite specifically for a single purpose, and that purpose has to do with killing. Some people make comparisons with motor vehicles and say that they can be used dangerously, but that is not their specific purpose. So, it is quite appropriate to increase police powers when we are dealing with the specific purpose in this situation.

The other issue that has been raised with me has to do with a series of matters I raised the other day concerning what people can and cannot do. The process of review is written into the Bill, and I think it is a quite appropriate process of review. From my perspective, that is a perfectly acceptable way to go about it.

The final issue I wish to raise is that a number of people feel that this version of the Weapons Bill has been tabled for a relatively short time and that they ought to have more time to deal with their concerns so that those concerns can be eased. I understand that on those grounds Mr Stevenson will attempt to adjourn the Bill, and I will support an adjournment for a relatively short time.

(Quorum formed)

MR TEMPORARY DEPUTY SPEAKER: I call Mr Stefaniak.

Mr Stevenson: Mr Temporary Deputy Speaker, I have the floor.

MR TEMPORARY DEPUTY SPEAKER: Mr Stevenson, the normal process is for speakers to come from one side of the house and then the other. That is why I am calling Mr Stefaniak.

Mr Stevenson: I know, but I was not going to speak on the Bill.

MR TEMPORARY DEPUTY SPEAKER: Do you have a point of order?

Mr Stevenson: No, I wish to move an adjournment. I have the floor at this stage.

MR TEMPORARY DEPUTY SPEAKER: Mr Stevenson, as I indicated, I propose to call Mr Stefaniak, in accordance with the normal practice of calling speakers from one side of the house and then the other.

MR STEFANIAK (10.53): Mr Temporary Deputy Speaker, this Bill has been around in one form or another for a long time. It had its genesis, I think, in 1977, when the Fraser Government was responsible for the ACT. There were a number of drafts, and one of the most recent ones, from which the current Bill emanates, was largely settled, I understand, in 1988 and 1989. I was somewhat surprised, when the Bill came in in 1990, to find that it was quite different from what most people - the police and the various sporting shooters groups - expected from a Bill that had been virtually settled in 1989. No-one is too sure exactly what happened, but the Bill tabled for discussion by the Attorney-General about this time last year was substantially different.

I think we have to be quite clear about what happened because it is relevant to the consultation time, which I know Mr Stevenson is very concerned about. That Bill resulted in quite a bit of consultation. I saw a large number of shooting groups. I made a submission, along with one of my government colleagues, to Mr Collaery. In fact, I made several submissions, and one very detailed one mentioned about 50 points in relation to the Bill. I am very pleased to see that the substantive points were taken up by the Government Law Office. They were reasonable points raised by reasonable people in the shooting movement.

I understand that the current Bill was finalised only recently, but there was a lot of consultation last year. Perhaps it is a pity that this Bill was not prepared a month or two earlier so that there could have been a little more consultation; but I think, by and large, there was a significant amount of consultation last year, and this Bill is a distinct improvement on what was here this time last year.

One of the most relevant improvements is the provision in paragraph 5(1)(m) dealing with sporting shooters. Under the old Bill one would have had to be a member of a club to be able to hold a dangerous weapon. I cannot, for the life of me, think of any club in the ACT which engages in competitions for .22 long bore rifles. Indeed, I would think the majority of sporting shooters in the ACT probably have such weapons.

Accordingly, as a result of lobbying and meetings between the Attorney-General and the sporting shooters - the sporting shooters saw a number of other people, me included - I am delighted to see their legitimate interests

taken into account in this Bill. In relation to people having an approved reason for requiring a dangerous weapon, paragraph 5(1)(m) states:

> in the case of a dangerous weapon, other than a pistol grip weapon or a self-loading centre fire rifle of a military type -
>
> (i) is a recreational shooter or hunter in the Territory and has the written consent of a lessee, occupier or other person referred to in paragraph 85(a); or
>
> (ii) is a recreational shooter or hunter in a State or another Territory;

I think that is a very sensible, practical position and is not onerous at all for sporting shooters. Indeed, most sporting shooters do have to shoot outside the Territory. It is my understanding that shooting is prohibited, perhaps under another Act, in most instances in the Territory. Most areas are shooter free and have been for some considerable time. So, most sporting shooters go to a friend's place, usually in New South Wales or even further afield. I think that provision is a very useful improvement.

Another innovation that I think is going to be very important in the future - the provisions have been around in one form or another for 14 years and there will probably be a few teething problems as things are worked out - is the advisory committee. The Attorney-General will set up an advisory committee to look at problems that emanate from this legislation and to make suggestions on improvements. I think that that also is a good, innovative idea and that we will see further refinements and improvements to this legislation. There are a couple of issues the committee might be looking at in the near future.

Since this Bill came before the house I, along with other members of the Assembly, no doubt, have been approached by a number of shooting groups and individuals who have expressed concerns. I am pleased to say that most of those concerns are the same, and some of them appear to be quite legitimate. Some perhaps result from a lack of appreciation of how the Act will be interpreted, and the fears in some cases may be groundless. Certainly, on a sensible interpretation of this Act, I think that would be the case.

The question of possession, which was mentioned by an earlier speaker in this debate - it might have been Mr Connolly - is certainly one of those. The courts in the ACT are quite clear on what possession of a dangerous substance is. There were a number of drug cases in the early 1980s which clearly stated what amounted to possession of dangerous substances. There might have been

two or three people living in a house. One person was found in possession of a prohibited substance, namely, some sort of drug, and the other people were charged as well.

In one Supreme Court case in about 1980 or 1981 - I think the case of Benson - it was clearly shown that the other two defendants really knew nothing much about what the third person in this shared group house was doing and knew nothing about the drugs that person held. Accordingly, they were found not to be in possession. That case, which I think went to the Federal Court, and similar cases clearly indicate what possession is. So, I think some of the fears expressed in relation to that question can be allayed.

There are a number of minor points the Attorney-General has already taken up. A number of clauses were referred to which were incorrect; some minor points have been drawn to his attention, and I think those have been taken into account.

I was somewhat concerned about a couple of other points as a result of representations made to me by some of the sporting shooters groups. Firstly, I have had the chance - and I thank the Attorney-General for it - to talk to officers from the Government Law Office about the question of penalties. For some of the offences - members of the Labor Party might be surprised to hear this - I thought they were a little too high. For instance, if you fail to sign a licence there is a maximum fine of $1,000.

Mr Connolly: Run that one past me again.

MR STEFANIAK: I will run that one past Mr Connolly. I thought that in some instances these penalties might be a little too high. Funnily enough, this is not the only Bill I have seen where I have occasionally had that thought. I am assured by the government law officers that the trend in all current legislation is for penalties to be continually upgraded. That is a sign of the times, and if that is the case I certainly have no problems with it. Basically, as Mr Connolly would probably appreciate, I believe that if a person commits an offence he should be given a just and reasonable and, if need be, severe and sufficient penalty.

Mr Berry: We will not go as far as capital punishment for a skateboard offence, though.

MR STEFANIAK: I do not think so. That would be a little too much.

Mr Collaery: But we have suspended death sentences.

MR STEFANIAK: The Attorney-General was telling me about how the Chinese have two-year suspended death sentences. *(Quorum formed)* There are a few other potential problems, and I have written to the Attorney-General in relation to these. Mr Connolly has seen the various shooting groups

and I think he found them all to be very reasonable people with relevant points to make. He expressed a concern that Mr Stevenson might well have been sensationalising the whole thing. I certainly found the people I saw to be very reasonable people with valid concerns, and I brought those concerns to the Attorney-General's notice.

Perhaps some improvement could be made in clauses 24 and 25, which relate to persons not having been subject to recognisances for a period of eight years or, if they have ever been to gaol, having been out of gaol for a period of eight years. I certainly have no problem with most of that. Clause 25 is very clear and quite properly makes a distinction between indictable offences and summary offences. That clearly would have the effect of excluding someone who might have served a short gaol sentence for a PCA offence - a drink-driving offence - or maybe a serious traffic offence but not an indictable offence. That person may well still be a fit and proper person to hold a firearm. That is sensible because I think it is important to differentiate between summary and indictable offences, especially traffic offences, which do not necessarily involve crimes of violence and certainly not crimes of dishonesty.

However, there may be a few interpretation problems with section 24, which I am sure the registrar can get over. The Government Law Office assures me that that will be the case, but I think the distinction might be less obvious there. It would be unfortunate if a person who had received a suspended sentence within an eight-year period or who had been subject to a term of imprisonment for something such as a PCA offence but in all other respects was a fit and proper person should be precluded from holding a firearm. That is something that could be looked at.

Clause 91(1) deals with the sale of weapons and ammunition. I understand that a person selling a firearm, if he has, say, 40 rounds of .22 ammunition, might be able to give that away to the person buying the firearm. If that is the case, and I assume it is, the people who brought that concern to my notice have nothing to fear. If there is a problem there, perhaps it could be addressed. I do not necessarily think there is; but it is important that when someone sells a firearm in accordance with this Act he is able, if he has any surplus ammunition, to pass that over to the buyer.

In relation to clause 51, questions were raised with me about a provision to enable a licensee to keep his licence pending the result of an appeal. It is a similar situation to a drink-driver who appeals against his conviction and keeps his licence until such time as that appeal is dealt with. Again, if there is a problem there I hope it can be addressed.

Another potential problem is that clause 13(1)(b) may be contrary to clause 82(1). I am very happy with clause 82(1) relating to the safekeeping of dangerous weapons. In fact, I think the Attorney-General has taken that up directly as a result of representations I made to him. Indeed, the formal words I suggested have been included, and I am flattered by the Government Law Office's use of those words.

Section 82(1) is now a very sensible provision. It is not an onerous provision, but it is practical. It allows flexibility, but it still very much protects the community's interests and is not too onerous on any person holding a firearm. However, clause 13(1)(b) may enable the registrar, by notice in a gazette, to determine guidelines for the security of weapons in premises. It is up to the registrar, and I think in practice there will be no difficulty here.

If that clause is read in conjunction with clause 82 there is no problem, but if it can have some civil application there is potential for a problem. That concern was put to me by several people. In practice it may not be a problem, but the committee may well look at it if it becomes a problem. I have a couple of other points, Mr Temporary Deputy Speaker, and in view of the quorum I wonder whether I can have an extension for two minutes. *(Extension of time granted)*

I am delighted to see that the Attorney-General has taken notice of a point I and a number of others raised with him recently relating to crossbows. They are a prohibited weapon under schedule 3, item 14, but we have a problem in that I do not think crossbows have ever been used in any sort of crime in the Territory. They are a sporting weapon, and in fact we have an international crossbow champion living in Canberra.

The Attorney-General has advised me that he will be giving persons who legitimately have crossbows an exemption, and he has the power to do that. That is certainly a very proper way of ensuring that that anomaly is taken up. I do not know how many people compete in crossbow shooting in the Territory, but it might be sensible if crossbows were moved from prohibited weapons to dangerous weapons and treated in the same way as weapons used in competitions, for example, various types of rifles, that are allowed under this Act.

Another person mentioned to me the possibility of a problem with soft body armour, referred to in item 2. It is a purely protective form of armour, and there was a query about why it was prohibited. I have drawn that to the Attorney's attention. There may be good reasons for it.

Those are the main points I have. I should make a point in relation to clause 24(2)(c)(B). It has been drawn to my attention - and I had experience of this in private practice - that it is common for both sides to take out a restraining order, even though there has been no violence; it is almost a matter of course. It is pointed out that difficulties may occur as a result of that. No-one else has brought to my attention any reasonable difficulties in relation to domestic violence and the possession of weapons, but it has been suggested that subparagraph (B) might be creating an unreasonable burden. *(Extension of time granted)*

That could be subject to abuse, and perhaps it needs looking at further. In many cases restraining orders are taken out by both sides and, indeed, are not necessarily subject to appeals.

The concerns expressed to me have legitimacy and I have taken them up with the Attorney-General. I think he has initiated a couple of moves already. I am pleased to see his amendment to omit the word "import" in clause 72. That word was really nonsensical when one read the clause.

I believe that the new Bill is a distinct improvement on the old Bill, although perhaps a few improvements will need to be made to it as time goes on. There will probably be some teething problems with certain clauses and we may need some further amendments. However, none of the groups I have spoken to has indicated to me that there should not be weapons legislation, and I have spoken to a lot of shooting groups. The ones I have spoken to in the last couple of months have all indicated that they support this legislation but that there are certain problems.

MR TEMPORARY DEPUTY SPEAKER: Just for members' edification: I allowed Mr Stefaniak to continue, although there is normally only one extension of time allowed, because he was entitled to a 7-minute extension.

MR STEVENSON (11.12): Mr Temporary Deputy Speaker, the Weapons Bill 1991 would restrict the ownership of firearms to certain categories of people as approved under this Bill. This raises the question of the jurisdiction of the ACT Assembly. The Constitution of Australia is somewhat expanded on what many people believe it to be. It includes the Magna Carta, common law, the Bill of Rights, the writ of habeas corpus and other matters.

The Bill of Rights of 1688, adopted at Federation, with the statutes of Westminster, states as follows:

> That the subjects which are protestants may have arms for their defence suitable to their conditions and as allowed by law.

It is interesting to look at how that came about. King James II of England was making certain social changes within that country - changes that Protestants particularly disagreed with. As a result of that, King James' reign from 1685 came to an end in 1688 with the people calling upon William of Orange and Mary to take up the throne of England. But prior to that they wrote a bill of rights which was agreed to by William and Mary and thus became part of the fundamental law of England.

When Federation occurred in Australia it was adopted into Australian fundamental law. In England Catholics were already armed, which is why the Bill of Rights referred to Protestants alone. In many of the earlier cases in colonial Australia judgments appear to affirm the constitutional fundamental rights of the people of Australia. These earlier cases appear to have been ignored by contemporary lawyers; yet the cases have never been overruled. I refer to and will quote extensively from a paper titled "Review of Law" by Sydney solicitor, Terry Schulze.

In 1839 Judge Dowling talked of the "applicability of all the fundamental laws of England". Other comments were: "... it adds to the great constitutional right conferred by Magna Charta"; and "... personal rights which are ... fundamental, constitutional and inherent ...". Schulze says:

> Clearly the early judges considered that the people of Australia had fundamental rights.

He says that in 1833, when "the judges considered the statute ... and the law of Australia", Judge Burton "recognised the duty of the judges as the guardians of the people". Judge Burton said:

> I look upon this clause as the great charter of the Colony, and at once yielding to the colonists all that by the common law, or by the liberal, and enlightened, and accumulated wisdom of our ancestors, has been provided for the protection of life, liberty and property, and for regulating the transactions of men with each other.

Schulze says:

> All becomes by virtue of it the "justice and right" which the judges are sworn to do to all the King's subjects, and which is expressly provided in one of the clauses of Magna Charta.

(Quorum formed) He continues:

> The learned judge also recognised the separation of powers doctrine ... wherein he noted the difference in deciding the application of the law versus the policy decisions of Parliament inherent in making a law.

Forbes C.J. clearly indicated the difference between constitutional laws and legislative laws ... "Adopting the distinction here drawn, by the Judges in England, between such laws as are of a general and fundamental kind, upon which the constitutional Government, and social rights of the community depend, and such as are of a political and local nature, calculated to suit the exigencies of particular times and places, and admitting of a deviation without affecting the general laws of the Empire.".

... ...

... the Chief Justice indicated that legislative laws must be reasonable and not repugnant to the constitution, "Let me not, however, be mistaken; the laws of England are our birthright where they apply to our condition, and can be administered to us with advantage; but where they are inapplicable they are not in force ... and general consent and usage of the Colony at large or the local Legislature, both being alike subordinate to the great and sovereign principle that our local laws and usages must be reasonable in themselves and not repugnant to the general laws of the parent country".

... ...

It appears quite clearly that the early judges of Colonial Australia considered that the people had fundamental constitutional rights, that the courts could declare an Act of Parliament void, that the laws of the legislature must be reasonable and not inconsistent with the Constitution and that fundamental documents such as the Magna Charta, Bill of Rights and Habeas Corpus Act composed parts of the Constitution.

That was the position of the law in the mid-19th century, as will be shown, there is nothing to prevent the Judges of the 20th century from taking the same position.

... ...

It was the re-assertion of legal positivism which had the greatest influence on the development of law in England and eventually in Australia. Whereas the people of England through the Bill of Rights of 1688 had declared once and for all an end to legal positivism in the form of the King's Prerogative, various academics in the 19th century revived the concept in the form of the Parliament's Prerogative or as it is better known, the "Sovereign Parliament".

In order to perform this bit of magic the various academics created their own version of English legal theory which they supported with their own brand of legal authority. This alleged legal authority did not, and does not, support the position taken by the exponents of the "Sovereign Parliament" theory. It was this legal/political theory that was being taught to the legal practitioners of the latter part of the 19th Century.

... ...

It is submitted, that the majority influence of this new theory was to undermine all the sacrifices of numerous generations of the English people. It reduced the great English heritage of freedom, back to the age before law to the age of power. Without this theory, the South African government could not have depreciated the English system of justice to its present condition in South Africa. It has placed the Commonwealth countries on a road which will inevitably give it an equality of despotism with the governments of China, Chile, USSR and other legal positivist countries.

It is submitted, that legal positivism is not objectionable per se. Many aspects of legal positivism, such as the irrebuttable presumption that the registered owners of vehicles are deemed responsible for parking tickets, are completely reasonable. Since such matters are acceptable because they are reasonable it should become apparent that acceptable aspects of legal positivism are under the natural law of reason. That is, legal positivism is subject to the natural law.

Sir Edward Coke was Chief Justice to the King's Bench, Chief Justice to the Common Pleas, and later leader of the Opposition in Parliament.

Dicey cites ... Coke's comments at page 36 in his "Fourth Institute" as supporting the Sovereign Parliament theory. However, the "Fourth Institute" was concerned with the jurisdictions of Courts and the chapter quoted from was entitled "The High Court of Parliament". Coke obviously was referring to the power of Parliament in the form of adjudication, not legislation.

What Dicey omitted to put in his student text was Coke's many other comments. Such as Coke's dictum in Dr. Bohnam's Case ... "it appears in our books, that in many cases, the common law will control Acts of Parliament, and sometimes adjudge them to

> be utterly void: for when an Act of Parliament is against common right and reason, or repugnant, or impossible to be performed, the common law will control it, and adjudge such Act to be void".
>
> Or Coke's confrontation with James I, wherein he risked being beheaded by asserting Bracton's comments that the Common Law protected the King, not that the King protected the Common Law ...
>
> Or Coke's comments during the drafting of the Petition of Right of 1627, wherein he stated "sovereign power is no parliamentary word. In my opinion, it weakens Magna Charta, and all our statutes, for they are absolute, without any saving of sovereign power ... Magna Charta is such a fellow that he will have no sovereign."
>
> ... ...
>
> What is so apparent from reading "The Law of the Constitution" is that Dicey does not support his theory with even one credible piece of authority ... Dicey simply states it as a fact. The "Sovereign Parliament" theory is inconsistent with the history of the English people, inconsistent with the authorities of the English legal theory and logically inconsistent.

Mr Connolly: I raise a point of order, Mr Deputy Speaker. I have been restrained so far, but I must ask that question of relevance. We are discussing the Weapons Bill 1991.

MR DEPUTY SPEAKER: Yes. Could you make your comments relevant to the Weapons Bill of 1991, Mr Stevenson.

MR STEVENSON: The jurisdiction of this Assembly is highly relevant to the Weapons Bill, Mr Deputy Speaker. Schulze continues:

> It has been said of this schoolteacher's lessons to vulnerable students that the "Sovereign Parliament" theory is:
>
> > A simple theory, for simple minds, that simply doesn't work.
>
> ... a more reasonable approach to a "government under law" would be the basic proposition that a stream cannot rise higher than its source. Likewise, with the Sovereign Parliament taking over the position of the former Sovereign, it cannot take over powers that the former Sovereign did not have. As the former Sovereign was required to respect the fundamental rights of the people, so too is the present Sovereign. The present sovereign simply steps into the shoes of the former sovereign in the fundamental documents of the Constitution. It is ... submitted that

> this theory is consistent with English history, consistent with legal authority and logically consistent.
>
> The development of law in Australia after the development of the "sovereign parliament" theory is a national embarrassment.
>
> ... ...
>
> However, the strength of conviction of the English people to the existence of their fundamental rights is best illustrated by the Magna Charta and the Bill of Rights of 1688. Both of these documents were documents of the people, forged from revolutions, they were not statutory products of a parliament.

MR DEPUTY SPEAKER: I will just stop you there, Mr Stevenson. You could actually make that relevant, but you are really not talking about the Weapons Bill. Would you relate that to this Weapons Bill. Please be relevant.

MR STEVENSON: Mr Deputy Speaker, I consider nothing more relevant than whether or not this Assembly has the jurisdiction to enact such legislation. Would you care to make a ruling on that? If you wish to stop me, stop me.

MR DEPUTY SPEAKER: Mr Stevenson, if you would like to show why this Assembly cannot enact this weapons legislation, by all means speak to that; but try to keep it reasonably concise.

MR STEVENSON: That is exactly what I am speaking to. I have to keep it reasonably concise because I was told by Mrs Nolan yesterday that Bernard Collaery, the Attorney-General, would not allow me extended time to make - - -

Mrs Nolan: That is not what I said.

MR STEVENSON: You said that I would not be allowed - - -

Mrs Nolan: That is not what I said.

MR STEVENSON: Tell us.

Mrs Nolan: I will tell you later.

MR DEPUTY SPEAKER: Let us not have cross-chamber banter, members. Continue, Mr Stevenson.

MR STEVENSON: I continue:

Likewise, with the Sovereign Parliament taking over the position of the former Sovereign, it cannot take over powers that the former Sovereign did not have. As the former Sovereign was required to respect the fundamental rights of the

> people, so too is the present Sovereign. The present Sovereign simply steps into the shoes of the former Sovereign in the fundamental documents of the Constitution.
>
> ... ...
>
> However, the strength of conviction of the English people -

Once again, I have difficulty locating the correct place. The major difficulty, because I was informed that I would not be allowed extended time, is that I cannot make the various logical connections between the things that have happened in this Assembly. I cannot talk on the various matters associated with the many cases that have been put before members of the Assembly and that show, whether the Assembly members like it or not, that people are concerned to have more time. Regardless of whether certain Assembly members maintain that there has been sufficient time, hundreds and hundreds of people in this Territory who have written letters to members do not believe that to be the case. The dictatorial attitude of members in not allowing the matter to be adjourned, regardless of whether they are right or the people are right, is appalling. There are many things I would like to say in this matter; but, having been told yesterday that leave would not be granted, I have to try to fit something that would take longer into a very short space of time. I have to hurry through it. I have been interrupted a number of times, and I now have some 30 seconds left. I cut out many sections of the speech that would have been helpful. Having been told yesterday that I would not be granted the time, I had little choice but to try to get as much in as I could.

Mr Humphries: Why do you not table the speech, Dennis?

MR STEVENSON: I will indeed table the document from which most of this comes. I seek leave to do so now.

Leave granted.

MR JENSEN (11.27): Mr Deputy Speaker, I would just like to pick up very briefly a couple of final points made by Mr Stevenson in his remarks. Clearly, the detail stage of the Bill provides - - -

Mr Stevenson: I already chopped it about so much. I leave you to a Bill that, if passed today, will be void - and it will be on the conscience of any person in Canberra to determine whether or not - - -

MR DEPUTY SPEAKER: Order, Mr Stevenson! Order! If you are leaving, leave quietly.

Mr Stevenson: Whether or not they will obey the constitutional laws or whether they will obey this - - -

Mr Connolly: I raise a point of order, Mr Deputy Speaker. This member is acting in a highly disruptive manner and I think you should deal with him.

MR DEPUTY SPEAKER: Yes. Mr Stevenson, you are acting in a disorderly manner. Would you please be quiet.

MR JENSEN: Thank you, Mr Stevenson - I am sorry; Mr Speaker - Mr Deputy Speaker. I am all confused by that incredible tirade. However, let us get onto what we are talking about here today. Mr Stevenson expressed some concern about an inability to raise the various issues and discuss them during the debate. Of course, it will be quite possible for Mr Stevenson to do that during the detail stage of the Bill - or both Bills, for that matter.

Before I start on my own comments on this Bill, I would like to comment on Mr Stevenson's suggestion that hundreds of people have written to the Assembly members. Certainly, I have received hundreds of pieces of paper, or letters that in some cases were signed with some form of address at the top. However, they are almost exactly the same and comply with about three different formats. I am quite happy to write individually to people who wish to take the opportunity to write to me specifically on the Bill, but I am afraid that the number of form letters that I have received does not indicate to me the sort of support that Mr Stevenson suggests he has. I think the number of people that appeared outside the Assembly on Tuesday this week proves quite clearly that the support that Mr Stevenson claims he has in this area is not necessarily there.

On that basis, let me say from the outset, and put it on the record, that I fully support the introduction and passage of this legislation in this Assembly. I have no doubt - and I am sure my learned colleagues from both sides of the house will think likewise - that this Assembly does have the power to pass such legislation, just as every other house of parliament in Australia has already done in some way, shape or form. I comment on this legislation today as someone with a degree of experience with weapons, having been a member of the Australian Army for some 22 years, which included a tour of duty in Vietnam as an infantry platoon commander. There I was made only too well aware of the effect of weapons. I might add at this juncture, for the benefit of Mrs Grassby, that I volunteered for my term of duty in Vietnam, Mr Deputy Speaker. I am really just getting that on the record because of the incident the other day.

MR DEPUTY SPEAKER: She assured me that she was only joking, Mr Jensen, so that is all right.

MR JENSEN: My Army career also included a number of years involved in the development and implementation of physical security policy relating to procedures for the control and protection of weapons and classified information. Therefore, I believe that I speak with some knowledge of

weapons in that area. However, my Army service was not confined to my personal use or knowledge of weapons. Picking up on something Mr Moore said, one of the drills that sticks most in my mind is: When you have a jam, it is cock, lock and look. I seem to recall that that was the phrase that was drummed into me as a young infantry soldier.

As a recreational sporting shooter as well as a member of rifle clubs and clubs where gun-dogs and their owners are involved in non-slip retrieving and field trials, I am fully aware of the use of guns and the potential for their abuse. In fact, last year, following an invitation from the organisers, I attended a gun-dog trial which Victorian gun owners had travelled to New South Wales to participate in. At that event I took the opportunity to discuss the issue with competitors from Victoria, New South Wales and the ACT. These trials were designed, of course, to enable dogs to prove their ability through competition, in the role for which they have been bred.

One of the matters that the Victorian visitors commented to me on was their concern about the permit to purchase system that applied in Victoria. A similar requirement was in the previous Bill that was tabled last year. I note that that has, in fact, been removed after discussions by my colleague the Attorney-General and his staff with the various groups who have an interest in that matter. As my colleague Mr Collaery said when he presented the Bill, the permit system in fact was a duplication and was unjustified.

While I acknowledge that no weapons Bill will completely ban the use of firearms in our society, this Bill provides a degree of control over their use with a requirement for firearm owners to justify their need to own and use a firearm. That is the key - to justify their need to own and use a firearm. The Bill proposed by my colleague Mr Collaery is designed to do just that, and to update existing control legislation.

Despite some suggestions from a well organised minority, who for some reason seem to have the view that they have an inalienable right to bear arms, I have no doubt that the majority of ACT residents, including responsible gun owners, agree with the need for the legislation. I seem to recall that the day before yesterday one of those people was speaking on ABC radio and that very point was in fact made. Many gun owners who have contacted me appear to have been given information that either deliberately misleads or at best misunderstands the nature of the legislation. I fully support the comments made on this matter by Mr Connolly on Tuesday, and I do not propose to go any further in that area.

Let there be no doubt that the majority of Canberra residents and our society require that controls be implemented for weapons and firearms that have a potential to take a life. While no weapons legislation can guarantee that another life will not be lost by the use of a firearm, if it saves one life, in my view, it has achieved its purpose. On that subject, in fact, you may be surprised to learn that, of the approximately 700 Australians who die each year from firearm misuse, the overwhelming majority of those deaths are self-inflicted. Of the balance, a further significant proportion of those deaths occur with a firearm that is held in full accordance with the law. Only a relatively small number of those deaths occur at the hands of people who may be considered criminals.

I do not think anyone really believes that weapons legislation will ever stop criminals obtaining weapons. I do not think there is any doubt about that. However, it will make it much more difficult for weapons to be obtained and used for criminal purposes. As I said, only a relatively small number of those deaths occur at the hands of people who may be considered criminals. Thus, by any objective yardstick, any diminution in death and injury in Australia from firearms will be best achieved by ensuring that those persons lawfully holding a firearm are not persons who are likely in times of stress or emotion to use the weapon irresponsibly.

To this end, I note the legislation passed in this Assembly last year regarding the removal of a weapon from a licensed holder who is the subject of an order under the Domestic Violence Act of 1986 or under the Magistrates Court Act of 1930. I notice that this in fact has been followed up by clause 25 of the Weapons Bill which requires the registrar to refuse to grant a weapons licence in such circumstances. At this juncture, I would like to comment on the suggestion that there is no right of appeal in those cases. That is absolutely incorrect, because clause 98(c) of the weapons legislation quite clearly requires a refusal to be subject to a review by the Administrative Appeals Tribunal. So, any suggestion put forward here or out in the community that there is no right of appeal against this decision making process is patently untrue. I might suggest that the AD(JR) Act might also come into play in this area. It is very important that such decisions be subject to review, and that is something that is clearly identified in this Bill.

Another issue that has been raised with me, and no doubt all other members - I note that Mr Stefaniak referred to it today in his speech - is the owning and use of crossbows. I am aware that the Victorian legislation allows for the crossbow to be licensed; but in New South Wales, I am advised, a weapon such as that will be classified in the same way as this legislation proposes it be classified in the ACT. However, I am advised that negotiations on this matter have taken place with representatives of the ACT and District Archery Council and, as you indicated in your

speech, Mr Deputy Speaker, the Attorney has also advised that it will be possible for those crossbow owners with a legitimate reason to own and use such a weapon under a regulation made under clause 22 of the Bill.

Let me also at this stage put to rest one suggestion made to me by Mr Stevenson in his letter. He suggested that one of the reasons why the Japanese did not invade Australia was that the country was an armed camp full of civilians with weapons and just waiting for the dreaded enemy to appear across the horizon. It is unfortunate that I do not have the quotation here with me, but let us just get it right for the record: The Japanese did not invade Australia, but not for that reason; it was because a battle with the American and Australian naval forces stopped the Japanese invasion fleet. So, it was not because of this land full of well armed civilians; it was because of the actions of the allied naval forces to stop the Japanese forces advancing towards Australia.

We are, and really always have been, an urban society. For example, the majority of Australians who were members of the first AIF were city dwellers and not sharp-shooting bushmen, despite a common belief to the contrary. For the record, I would like to read into the record what Mr Stevenson has said about this matter. I quote from a news release, dated 14 February 1991, which uses the same sorts of words as those used in a letter sent to me. It says:

> If most Australians had rifles and were trained in their use, this would act as a valuable deterrent to any potential aggressor. It has been stated that the reasons Japanese forces did not invade Australia was because they knew our citizenry were well armed and well trained in the use of weapons. It is this action of forming a citizens militia, rather than removing the fundamental right of Australians to bear arms, that would no doubt also have the effect of reducing the rate of serious assault with guns.

There would not be one reputable historian in Australia who would even suggest that that was the case. Our society has never accepted the almost obsessive fascination that the American society has with guns, and I trust that we never will.

In closing my remarks, I would like to comment on the commitment by the Attorney-General to establish a weapons control advisory committee to assist him in the review of the operation of this legislation. As my colleague Mr Stefaniak has said, this is an important commitment which shows how our Attorney is prepared to ensure that the community is given every opportunity to participate in the development of such important legislation and its subsequent implementation. However, I do note that the review committee is not included in the legislation and I would appreciate a comment from the Attorney on whether he

might like to consider adding this at some stage later on. This will ensure that such a committee could not be easily removed or disbanded by any subsequent government without debate in this Assembly. I commend the Bill to the Assembly and urge all members to support it fully.

DR KINLOCH (11.42): First may I agree with Mr Jensen about the huge number of letters we are receiving. I contrast that situation with the education debate. On the very complicated matter of schools we also received hundreds of letters; but in most cases they were individual letters, individually drafted, speaking to a specific situation. I am not too impressed by a couple of standard letters hastily signed; and certainly I do not propose to answer all those letters.

Very reluctantly - do not get worried anybody - I will support this Bill as the best Bill now available. I do not really want to see any guns in the ACT; but, if we have to have guns, then I think this Bill probably takes care of them. I want to speak as a member of the Civil Liberties Council of the ACT. In particular, my speech is directed to one of our members - but, of course, to all members - and I am sorry Mr Stevenson is not here.

Mr Stevenson and I agree on some things, on some we disagree, and on others we are just ships passing in the night. I would like to address the questions of civil liberties, though, that have been raised. I understand that arguments are being put forward against the Weapons Bill on the grounds of the possible violation of civil rights if guns - and I prefer the term "dangerous and potentially murderous weapons" - are taken out of the hands of ACT citizens. The argument seems to be that there is some innate civil right to carry a gun. First of all, I am more concerned with the overall civil rights of the total population to the protection of life, liberty and property than with the rights of a minority, under almost any circumstances, to have guns.

The protection of the populace at large, I believe, is best achieved in a stable, peace-loving system with as few guns as possible - and may that be better achieved as a result of this Bill. Part of the argument about the right of individual citizens to own guns seems to be derived from a misunderstanding of constitutional history, especially that of England - and I say England here because we are talking about the seventeenth century, not the eighteenth, nineteenth and twentieth - but also that of the United States of America.

Let us begin with that already quoted Bill of Rights of 1688 or 1689. I recognise the problem of saying which year it is, and I will be saying 1689. What is protected there is a basic objection to a standing army. I join with Mr Stevenson, and I am sure with Mr Connolly and all those who are interested in law and history, in recognising that huge and important struggle in the seventeenth century in which

parliament became superior to the king. The king was still there, the Crown was there; but that great battle, as we look back on it now, was on that constitutional issue.

Part of that issue was, of course, about a standing army. If the Crown could have a standing army and raise money for a standing army, then the rights of the citizens could be violated. Also, the rights of citizens could be violated if there was a quartering of soldiers contrary to law. So, at the end of the seventeenth century and the beginning of the eighteenth century, the worries were not about Englishmen running around England with guns.

The heritage of that Bill is indeed of very great significance and value, and I do not wish to discount it. But anyone reading the Bill will recognise that it is very much of its time and place. It is one of the most bigoted Bills in English history. When I think of it as, in a sense, having been carried over to this part of the world, I would like us to rephrase and reissue the Bill of Rights without its animus against Catholicism and other religions. So, of course, I find that historical process at the end of the seventeenth century enormously important, but please let us not use or misuse it to think that it is somehow or other a help to carry guns.

The Bill of Rights of 1689 was extremely significant for the North American colonies during all of the eighteenth century. To some degree you could argue that it was even more important for them than for their cousins in England. There were unique conditions in many parts of North America which seemed to call for the ownership of guns by citizens. They were on the frontier; they needed guns for their own individual protection. Thinking back to one thing Mr Jensen said, most Australians now are urban; we are in an urban society. One can see that in a bush society where there are dangerous animals or something of the kind it would be natural to carry a gun. And so it was in the eighteenth century. Then you have to think of the particularly horrible kind of warfare going on between the natives of North America and the white settlers.

Also, they needed guns for their livelihood. The use of a gun was not some kind of recreational activity; it was connected with bears and food and so forth. They needed guns for those reasons. But I want to come to the particular constitutional issue that gets picked up in the twentieth century, in 1991, as though it is still relevant.

One reason for the North American colonists insisting on their right to arms was that they wished to serve in the colonial militia, and eventually, in the period from 1775 to 1781, to serve in that militia, which some people would regard as disloyal, others revolutionary, that brought about their independence - the independence of 13 separate colonies in 1781 and eventually one nation in 1787. Forgive this little historical disquisition. Mr Stefaniak

must feel that this is just a retread. As a result of that episode between 1775 and 1781 it became extremely important indeed, within the United States Constitution, to have some kind of defence for the right of individuals to carry weapons; but let us see what that was.

If you look at the famous American Bill of Rights of a hundred years later - the first 10 amendments of the United States Constitution - which was ratified in 1791, 200 years ago this year, and contrast it with the 1689 Bill of Rights you see the second amendment, the right to bear arms. That amendment has been massively misused. It is certainly misused in the United States. I think it is even more misused when we try to take an historical constitutional document and apply it to Australia. It is irrelevant. But in a weird way it would not be irrelevant if it was constitutionally understood.

The second amendment is very brief and I am going to read the bit that keeps getting quoted by those who think they should be able to bear arms. It does indeed say, "The right of the people to keep and bear arms shall not be infringed". But I want to read the piece that precedes that and it is the piece that is forgotten. The complete amendment is:

> A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

It is not about individual rights. Of course, people on the frontier could bear arms. Trying to stop them from bearing arms would have been extremely difficult. There would not have been enough people to stop them. The whole point of that amendment was that Connecticut, Delaware, Rhode Island, New York or whichever new State would have a State militia. The people in that State with arms could join the militia straight from their farms, their houses or the frontier so that the State could be protected.

We are talking about a world at the end of the eighteenth century which had no standing army. Standing armies were anathema, as, indeed, they had been anathema in the seventeenth century. So, too, they were anathema to the American colonists. Of course, the American colonists remembered the Hessian troops who had been brought over by the English authorities. I keep saying "English". Is that a form of prejudice? They wished to have a "well regulated militia". They wished to have guns to oppose their enemies. So, we have the whole mythological tradition of the "minutemen", the men who could pick up their arms in a minute and dash to the militia and therefore oppose the British or any other enemy that faced them. That amendment has been misused by the National Rifle Association, the gun

lobby of the United States. They have taken the latter part of that amendment and pushed it to an extreme, taking the view that anyone now, in Texas or Washington or wherever, can have a gun. We know what that has led to.

I am not in the business here of trying to denounce the citizens of the United States of America. In any case, there is the American Civil Liberties Union, which is very worried indeed about the misuse of guns. There are associations all over the United States for whom one of the deep concerns is the misuse of guns in that society, and the ease with which guns can be obtained. We do not have to talk about the assassins, the Lee Harvey Oswalds and the killers of Martin Luther King and Robert Kennedy. You could just walk into a store and get a gun. You could write to a mail order house and get a gun. We do not want that kind of society in Australia. We do not want it to be easy to get guns. We do not want civil rights to be used as an excuse to get guns. I feel terribly distressed about our sister city of Washington DC, a city with that magnificent mall containing monuments to Jefferson, Washington, Lincoln - the whole panoply of American constitutional heroes - and yet a city which has one of the worst murder rates of any city in the United States. Why? Because of the easy availability of guns.

Anything we can do to curb that I would wish to support, and therefore I honour those who have put together this Weapons Bill. I would like to say, as a concluding point, that to use the theme of civil rights to support the easy obtaining of guns is a blasphemy against civil rights.

MR COLLAERY (Attorney-General) (11.54), in reply: Mr Deputy Speaker, I will deal seriatim with some of the points raised in earlier comments, then I will come to some more general statements. In fact, Mr Deputy Speaker, most of these matters were raised by you and I will address them.

On the subject of the sale of leftover ammunition, clause 91 of the Bill does create an offence where a person other than a gun dealer or authorised club member sells ammunition. This, I might remind members, is intended to give effect to recommendation 57(3) of the National Committee on Violence. As we see it, and within the clause, the options available to a person with leftover ammunition are, firstly, to dispose of it through a gun dealer or an authorised club member, for which purpose the person can make such an arrangement with the dealer or authorised member as the parties decide. This is similar to the approach we have taken regarding the disposal of a firearm, where the owner can surrender it to a dealer on terms decided between the parties. Secondly, the ammunition can be given to another licensed person for use in a firearm registered on that person's licence and which is of a kind for which the ammunition is suitable.

In summary, therefore, there is every opportunity, in our view, for the value of leftover ammunition to be recovered, if that is the owner's wish. Of course, the Bill allows 28 days for the owner to make arrangements for the ammunition's disposal. We recall that the concern of the National Committee on Violence was understood to be to limit the capacity for ammunition to fall into the hands of unlicensed persons and be used in unregistered firearms. This clause is part of the gradualism of this Act, which hopefully will slowly diminish the amount of live ammunition in general circulation.

Also, Mr Deputy Speaker, you raised the question of a possible conflict between clause 82 and clause 13(1)(b). You saw some conflict with the specific rule, in clause 82, that the weapon had to be kept "in a locked container or under such conditions as to prevent another person from having access to the weapon without the specific consent of the owner". We are, of course, indebted to Mr Stefaniak for assisting us to draft that clause; but the intention of clause 13(1)(b) is to enhance that clause. In other words, clause 13 will only give, in our view, a guideline to enhance the prescription in clause 82. We are only talking about a guideline in clause 13(1)(b). Those guidelines might be matters of interest to the Assembly and may be caught up under some of the subordinate laws. I would suggest to the Assembly that in reality the registrar is more likely to use the power only in relation to the security of a dealer's premises.

On the subject of crossbows, I am advised by my Law Office that there are only two or three competitive crossbow users in the Territory at this time. The Law Office has had discussions with the ACT and District Archery Council and, of course, I propose to provide a suitable exemption for competition crossbow users in the regulations. On that subject I must stress that the Assembly no doubt will pay close attention to the regulations, both at the drafting stage and when presented in the Assembly. I might add that crossbows are banned in New South Wales, according to my advice.

On the subject of soft body armour which, for definitional reasons, has been made to be a prohibited weapon, we are talking about bulletproof vests. I think the Chief Minister and I might recall that one of the options offered us at one more dangerous stage of our Government was that a vest might be made available to those of us threatened at public meetings. At that stage, sadly and regrettably, I think we were both under a certain threat. But, not to dwell on that and hopefully not to see that publicised, I might add that we would be able to issue an exemption to enable the wearing of bulletproof vests by non-police forces. They are simply prohibited under this legislation, and they are prohibited on the basis that they can be used as an adjunct to wrongdoing by persons who wish to escape the possibility of being apprehended.

The other clause that Mr Stefaniak adverted to was clause 24, in which restraining orders are mentioned, With respect to Mr Stefaniak, I believe that he should reread the provision. The making of a restraining order against a person does not as such prevent a person from being licensed. It merely is a factor to which the registrar must have regard in making his decision. On my advice, removal of the clause will achieve nothing. The registrar would still be entitled to take the matter into consideration.

I think we need to look at that in the regulatory stage. Groups who are concerned about violence in the community may be affronted by removing this clause, or its amendment.

Mr Moore: Which specific clause is this?

MR COLLAERY: Clause 24(2). In other words, it is there really as a guarantee to those concerned about domestic violence matters. The fact is that the registrar would have a discretion anyway. Under the guidelines and under the regulations that we as an Assembly would approve, we would want to make sure that the registrar would be very stringent in that regard, so we picked it up in the Bill. Arguably, perhaps it should just have been in the regulations, but I received very strong representations from the Domestic Violence Crisis Service and other quarters and I thought it should be reflected in the statute.

I am having some difficulty responding to Mr Stevenson. I am greatly indebted to some advice from Mr Connolly, who is a trained constitutional lawyer. He has reminded me that the proposition that we, in our legislatures in this country, are limited to that which the sovereign could historically legislate on is just bunkum. The source of power is our own and we can legislate as we see fit within the normal constraints of law-making.

I am also indebted to Dr Kinloch - I am sure the Assembly is too - for the excellent address that he gave us on the historical side. I was very pleased and interested to hear Dr Kinloch put down that historical furphy relating to 1688. It was a very interesting address. I believe that it is a great credit to this Assembly, sometimes, that across the spectrum of members speaking here we can have that level and depth of discussion from a variety of members, as we have today. I guess we have to reflect the extreme viewpoints even from the literalists, as I will now call Mr Stevenson, of the Assembly. He is, above all, the most prominent literalist, in my view, in this Territory, and to hear a literalist attack the positivism of the law is quite something. A literalist reads the paragraph below as meaning something that the paragraph above did not say.

Mr Deputy Speaker, to conclude, I thank the members of the house for this historic passage. I believe that the country will have a model Bill to build on and that my successors probably will be able to point to this statute over coming years as being the genesis of, hopefully, uniform weapons controls throughout our nation.

The development of the Bill has been very lengthy. For those interested in some history, I believe that I should put into the record a couple of points about its origin, just so that there is no suggestion that the Alliance Government is point taking.

I will go to 1980 in the Territory. It was at about that time, on my advice, that the review of the Gun Licence Act 1937 was commenced. It was a routine review. There was no pressure for the review at that time and no real priority was accorded to the task. In the mid 1980s sporting shooting organisations started to get involved and extensive submissions were received. Of all the community groups with which we deal, I am sure we have been impressed by the comprehensive nature and the articulateness of this lobby - the reasoned part of the lobby. We are greatly indebted to them for the decent and sensible approach they made to this legislation.

In 1987, the dreadful Hoddle Street and Queen Street massacres occurred in Melbourne. They were the first such incidents in Australia and resulted in national outrage. The Prime Minister, Mr Hawke, as we recall, hastily convened a special Premiers Conference to consider Australia-wide controls on the possession and use of weapons. Sadly, we are still looking at it, and hopefully we can be the precursor to it.

In 1988 the Australian Police Ministers Council developed proposals for legislation to control firearms. Each of the State Labor governments expressed support for very strong controls, perhaps the most significant of which was a complete ban on all semiautomatic weapons. Of course, the ACT, in accordance with Commonwealth Government priority, then elevated this legislation to a higher level of priority and moved to introduce legislation as recommended by the Australian Police Ministers Council, including the semiautomatic ban. I digress here to acknowledge that that has been achieved through the initiative of my colleague on the other side of the lake, Senator Michael Tate, in a generic statement the Commonwealth made recently on the importation of firearms which, in effect, bans the importation of semiautomatic weapons and restricts their use. Our legislation then restricts the residue of a certain type of semiautomatic weapon to competition use only.

We have harmonised our Bill with the generic statement and henceforth the importation of those military style centre fire self-loaders will be prohibited. In recognition that such firearms are already available in Australia, the Weapons Bill only permits their use for competition shooting at an approved club. The Commonwealth regulation on importation allows the importation of non-military style centre fire self-loaders with a detachable magazine but only with a maximum of five rounds. It also allows rim fire self-loaders in that category, but our Bill places no specific restrictions on these kind of firearms. They can be used for competition shooting and so forth, as we have mentioned in debate.

Coming back to the historical line, the first State election that was held after the initiatives were taken nationwide was called by the unfortunate Unsworth Labor Government. It campaigned on the basis of the background of the Hoddle Street and Queen Street massacres and, of course, the Government fell, with the shooting movement claiming some element of the credit for its fall. Later in the year the Victorian Labor Government went to the polls, having stepped back from the very strong gun controls that it had previously announced. It survived. Thereafter we have a process of evolution of the legislation in this Territory as we moved towards self-government. Quite properly, the Follett-Whalan Government continued the preparation of the legislation, and the Bill, as drafted in its initial form, was brought down by our Government in February 1990. It reflected an early decision of the first ACT Labor Government to agree to the preparation of a Weapons Bill. So, it has been a joint project. I put that on the record so that there can be no suggestion that the Alliance is simply point-taking.

Mr Deputy Speaker, I conclude by making a very strong statement of gratitude to the public servants who have assisted the processing of this legislation, particularly Mr Ross Jones and Mr Andrew Mason who are in the chamber today to assist us with the passage at the detail stage. They have gone to enormous lengths in this matter and have survived a great deal of representation, some of which at certain stages was quite pointed. I believe that they are very meritorious public servants and that their service to us in this regard should be recognised.

MR DEPUTY SPEAKER: Thank you, Mr Collaery, and thank you for those explanatory comments in relation to certain clauses.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

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

Page 36, line 31, subparagraph 72(4)(c)(ii), omit ", import".

MR CONNOLLY (12.09): The Opposition agrees with this proposed minor amendment. It is ironic that Mr Stevenson, who made such fuss among the public and who stirred up outrageous allegations about this Bill, does not have the guts to come in here and raise his concerns at the detail stage, and shame on him.

Amendment agreed to.

Bill, as amended, agreed to.

WEAPONS (CONSEQUENTIAL AMENDMENTS) BILL 1991

Consideration resumed from 14 February 1991, on motion by **Mr Collaery**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Sitting suspended from 12.11 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Consolidated Planning Legislation

MS FOLLETT: My question is to Mr Kaine as Minister for planning. I draw your attention to statements you made in the house on 21 February in which you assured the Assembly that the revised single consolidated planning Bill would be available within two weeks. Three weeks have now passed, and I ask: Where is that legislation?

MR KAINE: Mr Speaker, the legislation is still being processed. As well as consolidating it into a single document, we are also incorporating into it all of the comments that came in from the second round of consultations, which closed on only 28 February. The Government will present that legislation to the Assembly when it is ready.

Mr Connolly: Then why did you say two weeks?

MR KAINE: I presume that this is the second question, so I will answer Mr Connolly as well, since he wants to know. There are two things going on here. One is that we are consolidating the legislation into a single Act. The other is that we are incorporating the comments that came in as a result of the second round of consultation. The document will be made available to you when all of that process is completed and according to the Government's timetable, not your timetable.

Mr Connolly: Then, why did you say two weeks? You said it. It was your timetable; you said it.

MR KAINE: Not to your timetable, Mr Connolly. I repeat: It will be done according to the Government's timetable, and when the Government is ready to present its legislation the Government will do so. You are not driving the process; the Government is. You are just going to have to be patient a little longer. In fact, the consolidated legislation is available. It is not available for you or for anybody else until the Government is finished with it and has incorporated into it the comments from the second round of consultations.

Mr Connolly: What about the two weeks? You said, "I promise two weeks", and you could not deliver.

MR KAINE: I did not say that I was going to give it to you. I will give it to you when I am ready to give it to you and not a day, not an hour, not a minute before.

Mr Berry: You misled the house, I think.

Mr Jensen: On a point of order, Mr Speaker: I think Mr Berry should withdraw that.

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

Mr Berry: I said, "I think".

MR SPEAKER: It was heard; it was recorded.

Mr Berry: I am allowed to form a view.

MR SPEAKER: Order! Mr Berry, please withdraw.

Mr Berry: I withdraw.

Unemployment Statistics

MRS NOLAN: My question is to the Chief Minister. Will the Chief Minister comment on the latest unemployment statistics for the ACT, released today by the Australian Bureau of Statistics?

MR KAINE: I am delighted to have the opportunity to do so. It is only a short time ago that the Leader of the Opposition tried to win a cheap point or two by referring to the latest statistics, which showed a fairly high rate of youth unemployment in the ACT. The Leader of the Opposition may be interested to know that youth unemployment in particular in the ACT dropped from one month to the next - from 35.7 per cent, which applied the last time the statistics came out, to 23.5 per cent this month.

That demonstrates that there has been a major reduction in youth unemployment. It also demonstrates what the Leader of the Opposition will never understand in a million years, no matter how many times I explain it to her: There is a seasonality about youth unemployment in the ACT. To take a figure when it is at its annual high, which always occurs over the period of December-January, and to quote that as though somehow it is a standard youth unemployment rate in the ACT is a gross abuse of the statistics.

However, it is not only youth unemployment that has dropped considerably in the ACT. The unemployment rate as a whole for the ACT fell to 7.7 per cent from the 8.1 per cent that applied in January. So, there has been a significant reduction in unemployment generally in the ACT and a very significant reduction in youth unemployment. Our youth unemployment figure, incidentally, is now much lower than the national figure, which stands at 25 per cent, whereas ours is at 23 per cent. So, in terms of both youth unemployment and general unemployment we are doing pretty well.

On the question of statistics, when the Opposition was trying to prove something about the ACT unemployment figures last month it might have been interesting to have looked at figures elsewhere. During the period from January last year to January this year the unemployment rate for Victoria rose from 12 per cent to 25 per cent - a 100 per cent increase in unemployment. In South Australia it rose from 7 per cent to about 12 per cent, which was a 50 per cent increase. In the same period in the ACT the unemployment rate rose by only 33 per cent. So, by any standard of comparison the unemployment rate and the rate of change in the ACT are better than in any of the States, and the figures are, in my view, sustainable.

I reiterate the point that those figures throughout Australia clearly demonstrate that the unemployment rate here and elsewhere stems from the same cause, that is, economic policy at the Federal level. It has nothing to do with what we at this level do; it is endemic.

Mr Connolly: It is never your fault.

Ms Follett: No, it is always someone else's.

MR KAINE: In this case, who do you think is responsible? Do you think Mr Keating's actions have nothing to do with unemployment? If you believe that, I would like you to get up and say so. It will just show how little you know about economics and the things that are driving the national economy at the moment. Our economy is no different from anybody else's, except that we are doing better, by any measure. Whether you take total unemployment, whether you take unemployment over a 12-month period, whether you take it from last month's figures to this month's figures, or whether you take youth unemployment or gross unemployment, we are doing better than your mates in Victoria and South Australia.

Incidentally, we are doing better than your Federal mates in managing our economy. Everybody else's budget is falling apart at the seams day by day; our budget is still in place. We will still achieve our budget objectives by the end of this year, while the budgets of Victoria, New South Wales, Western Australia and the Commonwealth are coming apart at the seams. They are in absolute tatters. Our budget will be seen at the end of this year to have stood the test and the proof of time. We will achieve our budget objectives, contrary to what most other governments in Australia are doing.

So, I think the figures are good figures. To quote our esteemed Federal Treasurer, they are good numbers and they prove that we in the ACT are holding our heads high in the national arena in terms of managing unemployment and our economy.

Hospital Services Budget

MR CONNOLLY: My question is to the Minister for Health. Minister, given your full knowledge of the difficulties with the hospital budget in previous years, did you, when appointing the Health Board, give them any specific directions to closely oversee the hospital budget with a view to monitoring any blow-outs? If you did, will you table that direction, and, if you did not, why?

MR HUMPHRIES: The guidance for the ACT Board of Health is contained in the legislation that members of this house saw only late last year, and which those opposite assisted in passing, I recall. I have not given any specific directions to the Board of Health since that time, although I have certainly met with the Board of Health. It was constituted on 31 January this year. I met with it at one of its first meetings since that time - I think that was within the last two weeks. I certainly discussed with them

a number of issues, including the necessity to control financial management. It was a very important matter that I discussed with members of the Board in the last two weeks. That has not been in the form of a written direction to them - that would be unnecessary, in my view - but I have certainly discussed that with members of the Board of Health.

Electoral System

MR STEFANIAK: My question is to the Chief Minister. In view of the difficulties the amendments to the ACT electoral legislation are likely to face in Federal Parliament, does the Chief Minister support current sentiments suggesting support for a referendum on the ACT electoral system?

MR KAINE: Yes. In fact, the Government is on record on numerous occasions as proposing that the most democratic and equitable way to address the ACT electoral system is to allow a referendum to be conducted so that the ACT people can express their views. That is not only the view of the Government; I also have publicly expressed my support for such a referendum on many occasions. In fact, I did so most recently when we were discussing a matter of public importance on the ACT electoral system in this chamber on 19 February. So, my position is on record and has been for a long time. The Government's view is on record and has been for a long time.

More than that, the principle was expressed in the Government's response last year to the report of the Assembly's Select Committee on Self-Government. The report, including the recommendation that a referendum be held, was adopted by this Assembly and has been referred to the Federal Minister for Territories, Mr David Simmons, for his information. So, there is no question that the Minister is well informed both on the Assembly's view and on my own view.

I was quite fascinated this morning to hear that there was a new initiative from Ms Follett for a referendum. I do not know where she has been for the last year while everybody else in the world has been talking about it. Suddenly she pulls this out and says, "This is a new Follett initiative for a referendum". I was quite astonished that she has obviously been totally switched off to what has been going on around her for so long. I must say that I was delighted to hear her expressing her support for the idea. I would be delighted if she could persuade her Federal colleagues to face up to the electoral chaos they have created for the ACT and allow the people of the ACT - - -

Mrs Grassby: We did not create it; it was the Federal Liberal Party.

MR KAINE: The Liberal Party is not in government at the Federal level. It was not the Liberal Party that gave us the d'Hondt system; it was the Labor Government. I see that the acolytes of the Labor Party are nodding their heads from the gallery. They agree with me entirely. It was a Labor Government that gave us the d'Hondt system and it is a Labor Government that cannot unscramble it now. Do not blame the Opposition. Blame your own mates in the Federal Parliament, who foisted the system on us in the first place.

Mr Berry: You should stay off the sauce at lunchtime.

MR KAINE: If you do not like it, I suggest that you get yourself over to the Federal Parliament; that you tell your mates at the Federal Parliament that you do not like it; and that you demand that it be changed, and changed in accordance with the wishes of the people who live in the ACT, not the wishes of somebody who lives in Hobart, Brisbane or some place else. I am delighted that Ms Follett has suddenly seen the light and accepted what everybody else has been saying for at least two years - that a referendum is a good idea. Get over there and tell your mates that it is a good idea. While you are over there, tell them that since they created this shambles it would be a good idea if they paid for the referendum as well.

MR SPEAKER: Mr Berry, before we proceed, I ask you to withdraw that aside you made earlier.

Mr Berry: What was that?

MR SPEAKER: That the Chief Minister should stay off the sauce at lunchtime.

Mr Berry: I did not say "the Chief Minister". I did not say that the Chief Minister should stay off the sauce. I said, "You should stay off the sauce".

MR SPEAKER: Who should?

Mr Berry: I said "you should". I did not say anything about the Chief Minister.

MR SPEAKER: Order! What are you up to, Mr Berry?

Mr Berry: I am not up to anything.

MR SPEAKER: It seems that you certainly are. I heard you say "he should", and I assume - - -

Mr Berry: If he was on the sauce he should stay off it at lunchtime.

MR SPEAKER: Thank you for that observation as well, but you are being outrageous.

Mr Berry: I will withdraw it. If he wants to deny it, I withdraw it.

Mr Collaery: Mr Speaker, I ask that he not only withdraw it but apologise to the house - two things, Mr Speaker.

MR SPEAKER: Mr Collaery, I understand that a withdrawal in Parliament is in fact an apology.

Mr Kaine: Let us see him withdraw. He has not done so.

MR SPEAKER: He has done so.

Hospital Services Budget

MR BERRY: My question is to the Minister for Health, Education and the Arts, who is sitting there soberly, and I am sure he will be able to answer this question. Will the Minister categorically deny that he had any knowledge on 19 February 1991 of any variation in the patterns of expenditure on the part of the hospital system vis-a-vis the budget?

MR HUMPHRIES: Mr Speaker, this is a question no doubt carefully devised in the fevered mind of Mr Berry to lay some sort of trap, which I have no intention of walking into.

Ms Follett: You did yesterday.

MR HUMPHRIES. That is what you think. That is what you think, Mr Speaker.

MR SPEAKER: I do not think that.

MR HUMPHRIES: I am speaking through you, Mr Speaker, to Ms Follett. I would have said that to Ms Follett, but standing orders would not allow that. Mr Speaker, I cannot recall what 19 February was.

Mr Berry: That was the day I first asked the question.

MR HUMPHRIES: If, indeed, 19 February was the date on which Mr Berry first asked that question of me - the question, as I recall it was whether I was aware of any variation in the health budget - the answer I gave on that day was true.

MR BERRY: I ask a supplementary question, Mr Speaker. Will the Minister categorically deny that he had any knowledge of any variation in the patterns of expenditure on the part of the hospital system vis-a-vis the budget on 21 February 1991, when the Chief Minister in the Assembly agreed to provide the information on the hospital budget blow-out?

MR HUMPHRIES: Mr Speaker, again Mr Berry has asked me to recall what was happening this time one month ago. I cannot recall. It was at about that time, of course, that the matter of hospital budget blow-outs began to be alleged by the Opposition. I cannot recall what I knew on that date. I cannot tell the house at this point what it was I knew when. I am happy to indicate to Mr Berry and to the house that whenever that matter has been raised I have looked into it. That has been the appropriate response of any Minister in the same circumstances.

Mr Berry: You apologised for misleading us before.

MR HUMPHRIES: Mr Speaker, I ask Mr Berry to withdraw that. There is a clear inference there that I am again misleading the house in some way.

Mr Berry: I said that you have apologised for misleading us before. There is nothing wrong with saying that. There is no implication that he has. Mr Speaker, I said that the Minister has apologised to this house for misleading it before. That is a matter of fact. If it offends the Minister, I will withdraw it.

High Schools

MR JENSEN: Mr Speaker, my question is directed to the Minister for Education. The ACT has a very good college system, and sometimes it has been suggested that our high schools are thought of as poor cousins to the secondary college system. I wonder whether the Minister can advise me and the rest of the Assembly what action is being taken to upgrade and improve the already high quality of our high schools.

MR HUMPHRIES: In Mr Jensen's question was the clear implication that there have been problems in our high schools. I think we can date those to the time when our secondary colleges were created in that by creating a secondary college we also created a new institution of a high school covering years 7 to 10. High schools, of course, being institutions that cater for the developmental period of adolescence, are institutions where teaching is not always an easy task. This can lead to problems of morale among high school students and their teachers.

The major emphasis, therefore, has to be on creating a high school environment which will be productive and enjoyable for students, for teachers and for parents. The development program this Government is launching will involve examination of the processes which control the operation of high schools, such as measuring performance, assessing training needs, supervision, and establishing the rights and responsibilities of teachers, students and parents in relation to the learning process.

Extremely positive preliminary negotiations have been held with principals to establish the principles and practice that govern the operation of high schools and with groups of parents and groups of students and parents to discuss rights and responsibilities. A draft education plan for high schools is currently being prepared. The draft will form the basis of the consultation phase of this project. The process of consultation will be led by a reference group made up of principals and representatives from community groups. The high school education plan has been scheduled for completion by the end of this month.

Psychiatric Day Care Centre

MRS GRASSBY: My question is to the Minister for Health. I asked part of this question only yesterday, so I am sure he will remember. Following on from his answer on the relocation of the psychiatric day care unit, will the services currently shared with the psychiatric unit at Woden be duplicated at the new location or will the users of the day care unit have to go without these services in this new location? When I say "services", will they have services such as the bus that is used for these people for touring, and every other service?

MR HUMPHRIES: Mr Speaker, the question Mrs Grassby asks, I think, was covered at least partly by my response yesterday. I spoke about some services being reproduced at the new location. I think I mentioned kitchen services. It may be that other things presently available at the hospital would need to be made available to the new location for the psychiatric day care centre. If that is the case, that need will be examined very carefully.

I cannot say to Mrs Grassby whether that plan has been confirmed yet and the details worked out. As I indicated, there is still some negotiation and some discussion to go on before the Government actually sets in concrete, as it were, the details of that plan. I imagine, for example, that the bus that presently is provided to that service will continue to be available. I will take on notice anything about that question on which I cannot provide details right now and get back to Mrs Grassby with them.

Anti-Discrimination Legislation

MS MAHER: My question is to the Deputy Chief Minister. I understand that the period for public comment on the discrimination Bill closed on 22 February 1991. Would the Minister care to comment on the response to the Bill?

Ms Follett: They hate it. We can tell you that. It is rubbish.

MR COLLAERY: The Leader of the Opposition interjects, "They hate it. I could have told you that". I clearly remember the Leader of the Opposition standing in this house and claiming credit for the Bill. Naturally, she wants it both ways again.

The period of public comment did close on 22 February and over 400 pages of comments have been received. Submissions are still coming in. Some of the comments are very learned; a lot of the comments are both learned and practical, and serious consideration is being given to all such consultation. It is clear on the comments received, particularly from academic and human rights circles, that this Bill is now perceived to be the new Australian model legislation in the area.

***Canberra Times* Site**

MS FOLLETT: Mr Speaker, my question is again to Mr Kaine as Minister for planning. Can Mr Kaine tell the Assembly what is the current stage of development of the old *Canberra Times* site? What is the current stage of negotiations on tenancy for the new building on that site? Will he assure the Assembly and the construction workers of Canberra that this project is on track and will be going ahead immediately?

MR KAINE: No, I cannot answer those questions. It is a private construction project. If Ms Follett wants to know the answers to those questions, I suggest that she talk to the private company that is putting up the money and conducting the project. It has nothing whatsoever to do with the Government. Insofar as the tenancy is arranged, however, I will repeat what I have said before: The ACT Government will not put any public servants in that building, and I expect the Commonwealth to stand by its commitment, as expressed in the National Capital Plan, not to put any additional public servants in there either. Beyond that, address your questions to the company whose job it is and which is putting up the money for it.

House Building Approvals

MR MOORE: My question is directed to Mr Kaine as Chief Minister. I refer to the matter of public importance discussed in this house on 20 February 1991 relating to objections raised by residents of Calwell to certain residential planning decisions. At one point you said:

> ... I am informed that other examples of adjacent identical houses exist, for instance, in places like Bruce Heights. It is not unusual to find that somebody builds houses of the same design.

Can the Chief Minister tell us who informed him of the existence of those houses and where those houses are located, since the residents of Calwell went looking for them out of an obvious interest in the matter and failed to find them; whether or not those houses bore any physical resemblance to the design of the houses in question in Calwell; and whether or not those residents interfered with their neighbours' amenities in the same manner as that which is claimed by residents of Calwell?

MR KAINE: Mr Speaker, I think I might have shredded the piece of paper on which the information came.

Smokers' Rights

MR STEFANIAK: My question is directed to the Minister for Health. Is the Minister aware of an advertisement on page 3 of today's *Canberra Times* encouraging smokers to ring a given number and give their views on the current state of smokers' rights? Can the Minister reveal who is behind this advertisement and why it has been placed?

Ms Follett: It is nothing to do with him. It is a private company.

MR HUMPHRIES: Ms Follett might not want me to answer the question; but I am very happy to do so, since Mr Stefaniak asked it. It will not come as a surprise to members to learn that the *60 Minutes* commercial television program placed the advertisement in today's newspaper. It appears that the program intends to come to Canberra to do a classic beat-up on the Assembly's anti-tobacco legislation.

Apparently it is the intention of the *60 Minutes* team to pack a hall full of angry smokers, who will then provide some colourful footage of aggrieved citizens who have been treated like third class citizens. I am not sure whether this will occur or not, and I would be the last person to discourage people from putting forward their views. On past performance, however, I do not have great faith in *60 Minutes*, which I would describe as the tabloid television of the news world, producing a fair and balanced report on the legislation.

I want to make it clear to *60 Minutes* that the legislation is particularly aimed at discouraging young people from taking up smoking. Smoking is the greatest cause of premature death and ill health in Australia, with 50 Australians dying every day of the week from smoking-related disease. Of great concern to this Government, as I am sure it is of concern to the Opposition, is the fact that close to half of all 15-year-old girls in the Territory are smokers.

I gather that *60 Minutes* does not intend to stage a presentation outlining the dangers of smoking or the positive effects of any strong anti-tobacco legislation. In this regard I think it is to be regretted that 60 Minutes is once again taking a less than balanced view of this matter, particularly a matter as important as this leading legislation in the ACT. I have grave doubts about whether it will achieve a very balanced view in the community about these important issues.

Jindalee Nursing Home

MR CONNOLLY: My question is to the Minister for Health. Will the replacement nursing home for Jindalee comply with Commonwealth guidelines for nursing homes, particularly with respect to location and amenity?

MR HUMPHRIES: That is a somewhat foolish question, given that, in the announcement indicating that the Government would be moving part of the home to the Acton Peninsula-West Basin area, I made it clear that it was the intention of the Government to do so on a basis that would attract a higher level of Commonwealth subsidy. Obviously that is not possible unless the nursing home location and all other features of the nursing home are in accordance with Commonwealth standards. That is clearly our intention.

Mr Connolly might be aware that it is now the policy of the Federal Government to promote smaller, more home-like institutions as nursing homes. That is the basis for the Government's decision to split Jindalee into two smaller nursing homes. It should be remembered that the attraction from the ACT Government's point of view is also in the fact that this provides for a larger level of Commonwealth subsidy. I think in all the circumstances we can expect a better environment for people who have to use that nursing home as a result of those changes.

Australian Federal Police

DR KINLOCH: Mr Speaker, there are some strange side effects of the very unhappy war we have recently witnessed. My question is to Mr Collaery as Minister responsible for police. Has he received a formal note from the Australian Federal Police regarding the redeployment of ACT regional personnel as a side effect of that war?

MR COLLAERY: I have received formal notice under the arrangement signed with the Commonwealth that 12 ACT region police officers are being redeployed as a result of security issues arising from and continuing as a result of the Gulf war. The arrangement does provide for a cost adjustment; but in this case, and in view of the circumstances, the Commonwealth proposes to meet the cost

of the redeployment from the date of redeployment and there will be no cost to the Territory. As well, I am assured that arrangements are in place to make up for the diminution in the personnel available in the ACT region.

Slow-Stream Rehabilitation Unit

MR BERRY: My question is addressed to the Minister for Health. What are the projected recurrent costs for the slow-stream rehabilitation unit to be located at the Acton Peninsula? What will be the impact of this service on the budget for the current rehabilitation and aged care unit?

MR HUMPHRIES: I gave details of all the costs known to the Government the other day.

Ms Follett: No, only of the capital costs.

MR HUMPHRIES: Ms Follett says that that was only capital costs. I will take on notice the part of the question that deals with recurrent costs. I cannot recall what they are offhand. They were something in the order of $900,000, I recall; but I am happy to confirm whether that figure is correct.

The impact on rehabilitation services at the Woden Valley Hospital is not significant. The services provided there are obviously complementary to what will be provided at the centre at the Acton Peninsula site. I would not think it could be said that the splitting of those services or the creation of the slow-stream unit at the Acton site was in any way a loss of service or a decline in the quality of services available in this area.

Certainly as far as the Government is concerned this facility is much needed in the ACT. It could be located close to a hospital. In our view, it could equally well be located away from a hospital, given that the emphasis is not on hospital-type services or hospital-type treatment but rather on rehabilitation towards moving people out of the hospital system and back into their homes or nursing homes or whatever it might be. So, I do not think we could expect any adverse impact on the rehabilitation services at Woden as a result of these changes.

MR BERRY: I ask a supplementary question, Mr Speaker. Will the capital costs that were announced come out of the redevelopment budget? When does the Minister anticipate that they will be committed?

MR HUMPHRIES: The answer is no, they will not, because they are not part of the redevelopment process. They are quite separate from that. It may be that at some stage the construction of that unit will be managed under the redevelopment process. The redevelopment process consists essentially only of those things that were encompassed in

the Kearney report for upgrading of the ACT public hospital system, with the establishment of a principal hospital and another lower level public hospital at Calvary. It does not cover the unit, any more than would the movement of the QEII home to the Acton site. That is quite separate, although it could be managed as part of that same process.

School Principals Conference

MRS NOLAN: My question is to Mr Humphries, this time in his capacity as Minister for Education. What was the purpose of the combined principals conference that was held for principals of ACT public schools early in March?

MR HUMPHRIES: There was a three-day conference in Queanbeyan from 6 to 8 March this year. It brought together about 100 principals from all ACT public primary and secondary schools and colleges, together with principal executive officers and senior administrators from the Ministry for Health, Education and the Arts.

The conference was a combined initiative of the ministry and the ACT Principals Association and an important pro-active undertaking to address major issues confronting school and system administrators today. The theme was educational effectiveness in turbulent times. It addressed the increasingly complex role of the school manager enhancing good education practice. It acknowledged recent changes in the Government's structure and administration of ACT schools under self-government, and it recognised the influence that contemporary factors such as economic restraint and increased accountability can have on school effectiveness.

The conference considered both interstate and international theory and practice in education leadership and effective school management and was addressed by eminent educators in the field of education administration, school effectiveness and performance, and career development.

Principals and senior administrators from the education division of the ministry worked together throughout those three days to address the emerging issues of the nineties that will impact on education provision for students in our schools. The education plan for ACT public schools was launched at that conference.

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

House Building Approvals

MR KAINE: Mr Speaker, I took a question on notice from Mr Stevenson on 20 February. I regret that Mr Stevenson is not here to hear the answer, but I am sure he will read it in the *Hansard.*

It was a fairly long question and had to do with blocks 2, 3 and 4 of section 77 in Calwell. He referred to a statement by Mr Jensen that the investigation into certain matters had been conducted at the highest level, and then he asked some questions. Specifically he asked: Did such an investigation take place? Who conducted the investigation? What exactly was investigated? What were the findings?

By way of clarification, I note that the three blocks we are dealing with here are having houses built on them by separate families. They are being built as their individual family homes. There is not a developer at all, which was implicit in the question. One of the owners happens to be an officer of ACT Public Works who undertook the role of architect and builder on behalf of his friends. The families are recent immigrants to Australia and are related.

With that background, in specific answer to the question I advise that there have been two investigations. One investigation was carried out internally within the Interim Territory Planning Authority and Public Works, and an investigation was carried out by the ACT Ombudsman. Within Public Works, the matter was investigated by the general manager of Public Works and, as I have said, the ACT Ombudsman carried out his own investigations.

The findings of the Ombudsman can be summarised as finding no impropriety concerning either the design and siting approval or the builder's licence - the two matters that were investigated by him. The officer of ACT Public Works was, however, found to have carried out the work without prior approval to carry on work outside the Public Service, as required by the Public Works code of ethics. It should be noted, however, that the work on his own house did not require approval.

The officer indicated that he did not realise that approval was required in respect of the other two houses since no remuneration was involved concerning the work and the work was being done for his relatives. However, it has now been brought to his attention that he did require approval. Since it was approvable under the code of ethics, he has been granted retrospective approval to carry out that work. The officer has been counselled about any future work. I think that that should satisfactorily answer Mr Stevenson's questions.

Department of Urban Services Float

MR DUBY: Mr Speaker, yesterday Mr Moore asked a question pertaining to the Department of Urban Services float in the Canberra Festival Parade last Saturday. In particular, he asked me to clarify some points concerning the breakdown of costs involved in creating the float. He asked specifically:

> ... how many people helped to build it; how many hours did it actually take to build; was any overtime claimed for those hours ... and, if not, does that mean that it was built during standard Public Service working hours? If it was, what more pressing public problems were left unattended whilst this endeavour was taking place?

I have the answers to those questions here. The total cost of the Department of Urban Services float in the Canberra Festival Parade has been calculated at $6,276.48. I will list the individual costings shortly. However, it should be noted that a substantial amount of the materials used can be recycled for use in the future. The cost of the construction of the float, including materials and labour, was approximately $4,000; the materials for props and costumes cost $1,451.48; the sound system hire cost $400; and the preparation of the sound track cost $425.

Mr Speaker, 11 people were involved in building the basic structure of the float, all of whom were trade apprentices, except two tradespersons who assisted at times as required. A further 50 people from my department were actually involved in creating costumes and props. The float itself took about 200 hours to build in working hours, supplemented by about 100 hours of voluntary overtime by an additional 10 people. The work was done by apprentices employed by ACT Public Works as part of their training program. I think it is worthwhile pointing out that the float set a standard for the parade and, of course, was rewarded with a prize for being the best float in the parade. It set a standard for future years, one that other participants in the parade could model themselves upon.

The costumes and props took approximately another 500 hours to make, all done by staff in their own time, outside standard working hours - and I might say that they worked very late at night for most of the week before. Consequently there is no overtime involved; nor has any time in lieu been claimed by any of those staff. I would like to say publicly that I and other members of the Government appreciate the esprit de corps that was demonstrated by the workers in Urban Services, the apprentices particularly, and we congratulate them very much for their involvement in that parade.

I might add also that I find the approach taken by Mr Moore to this matter amazing and unacceptable - when hundreds of hours of voluntary work are done by officers of my department to participate in a major public festival. It is absolutely amazing. I believe that they did an excellent job and I believe that their award was well deserved. I note, of course, that Mr Moore was one of the thousands of people who observed that parade and I am sure that all these people got excellent value for money. That $6,276.48 is about the same cost to the public purse as Mr Moore's trip to inspect the brothels of Amsterdam.

UNPARLIAMENTARY LANGUAGE

MR SPEAKER: On Tuesday, 12 March, during the adjournment debate several comments were made by both Mr Duby and Mr Berry which caused concern. I have reviewed the *Hansard* and I would request both members to withdraw those comments and words which are unparliamentary. In particular, I request Mr Duby to withdraw any imputation that Mr Berry was somewhat disappointed that allied losses were not higher. I also call on Mr Berry to withdraw a number of offensive words directed at Mr Duby.

Mr Duby: Mr Speaker, I have perused the *Hansard* of that particular evening and I want to say, as I did state during that particular adjournment debate, that I unqualifiedly withdraw any imputation whatsoever that Mr Berry is not as patriotic as the next man. And I unqualifiedly withdraw any imputation that Mr Berry was not satisfied with the result of the war in the sense that somehow there should have been more casualties on the allied side.

I respect Mr Berry as an Australian citizen and as a patriot and I withdrew any imputation of that kind. I should point out to Mr Berry, though, having read the papers, that perhaps a better turn of phrase might be the appropriate way to address the issue.

Mr Berry: I thank Mr Duby for his lecture on English; but he might take a measure from me when it comes to traffic matters. I withdraw any offensive and unparliamentary language.

PAPER

MR COLLAERY (Deputy Chief Minister): Mr Speaker, for the information of members I table the following paper:

> Audit Act - National Exhibition Centre Trust - Report, freedom of information statement and financial statements, including the Auditor-General's report for 1989-90.

DEPARTMENT OF EDUCATION
Report

MR HUMPHRIES (Minister for Health, Education and the Arts): Mr Speaker, for the information of members I table the following paper:

Education - Department - Report for 1989-90 -

I move:

That the Assembly takes note of the paper.

I have much pleasure in tabling the annual report for the financial year 1989-90 of the former Department of Education which was of course integrated in July 1990 into the new Ministry for Health, Education and the Arts.

In that period the ACT was, as now, much associated with other States in the progress towards important educational reforms initiated by the Australian Education Council. The system has also been strongly influenced by national curriculum work and changes leading towards a new concept of Australian education. Another influence in the financial year under consideration is that both the Commonwealth and the new ACT governments addressed the problems of overfunding of the Territory's education system, as identified by the Grants Commission. I would like to draw attention to some of the first results of these pressures for change at a time of transformation of the status of the ACT itself, and of the services which its Government offers in education. They include: The establishment of a task force dealing with further developments in preschool education; a major examination of ACT high schools, referred to earlier today, and how they might be improved; a cyclical review of the performance of individual schools; the introduction of full fee-paying overseas students into ACT public schools; an agreement with the University of Canberra to promote the teaching of science in preschools and primary schools; a study of the teaching of languages other than English in primary and secondary schools; and a further step forward in the long-term project to reshape the ACT school system to meet changing demographic and economic trends.

In tabling the annual report, I refer to a letter dated 28 February 1991 from the Auditor-General, Mr J. S. O'Neill. He writes that the financial statements are based on proper accounts and records, except that certain recalculations of long-term leave accrual, as agreed upon, will not be carried out until an automated personnel system is implemented. He states also that land and buildings which are controlled and used under the title of the ACT Schools Authority have not been included in the statement of assets and liabilities. These are not issues of major concern.

There is no suggestion of any impropriety or lack of control over long service leave credits. It is simply that a detailed check of individual credits against estimated total credits has not been made. If it were done now, the clerical cost of doing it manually would be significant. Once a computerised human resource management system is in place, within the next year or so, this check will be made each year without difficulty. The question of building assets is not related only to the Department of Education.

Although it has been presenting accounts on an accrual basis for several years, the public school system has not been expected to bring to account depreciation costs for school buildings. Under the guidelines for financial statements of ACT entities, there is now a requirement to include building assets and associated depreciation in financial statements. Clearly, there are issues about how this should best be done, which will need to be worked through for all government buildings, not just for schools. The ministry is examining ways in which these issues can be addressed.

MR MOORE (3.19): Mr Speaker, I would like to draw attention to a mistake in the annual report of the Australian Capital Territory's Department of Education. The caption under the picture on page 12 says, "Mr Gary Humphries, Minister for Health, Education and the Arts, with students from Ainslie Primary School". Actually the photograph was taken on the occasion of the forty-fifth birthday of the Reid Preschool. The students were in fact at that time students of the Reid Preschool - except for the small one at the bottom, who is my daughter and who in fact is not a student of any school at all.

MR SPEAKER: Thank you for that observation, Mr Moore.

Question resolved in the affirmative.

NORTHBOURNE OVAL
Ministerial Statement

MR KAINE (Chief Minister), by leave: Mr Speaker, I would like to advise the Assembly that the Government has approved a variation to policy for Northbourne Oval. This variation will ensure that the oval is retained for recreational uses and will not become available for housing development. Northbourne Oval has a very strong link with Canberra's heritage. It was first identified as a park by Walter Burley Griffin and has been in use as a sporting oval since 1927. The pine trees around the oval were planted by Thomas Weston as part of the landscaping carried out to establish the character of early Canberra. The oval has played a major part in Canberra's sporting history and its location close to Civic centre gives it enormous potential for serving the city's recreational needs into the future.

In November 1989, the Interim Territory Planning Authority released for public comment a draft variation policy proposing that the oval be used for residential purposes and that the ACT Rugby Leagues Club, at the southern end of the site, be retained and be allowed some expansion. At that time it was believed that the oval was surplus to the requirements of the ACT Rugby League and other sporting codes. As a result of publishing the draft variation to policy the ITPA received 35 responses. Many respondents, including the National Trust and ACT Heritage Committee, pointed out the heritage value of the oval. Others, including sporting bodies and clubs, argued that the oval was required for sporting activities and that, if the ACT Rugby League did not wish to use it, it should have been made available for other codes.

An assessment by the ACT Parks and Conservation Bureau late in 1990 identified the need to retain Northbourne Oval as a sporting venue. If it was to be redeveloped the bureau advised that another enclosed oval would be required and the cost of a replacement oval was estimated at $2.7m. The ITPA has consequently reviewed its draft variation to policy in the light of the submissions it received and also on the advice of the ACT Parks and Conservation Bureau. The Government is pleased to approve the plan variation which provides for Northbourne Oval being retained for restricted access open space or public open space. The ACT Rugby Leagues Club would also be able to expand, provided adequate on-site parking can be provided and landscaping requirements met.

My Government is supportive of moves to increase opportunities for small scale residential redevelopment, particularly in the inner Canberra suburbs. I believe, however, that this can and must be achieved in character with our unique environment. It is in this context that the Government has decided to retain Northbourne Oval for recreational use, and the house is assured that this sensitivity to our history and environment will be a continuing feature of this administration. I am sure there are many Canberra residents, some of whom learnt their football skills on Northbourne Oval, who will welcome this decision. I present the following paper:

Northbourne Oval - Ministerial statement, 14 March 1991.

I move:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

POLICE SERVICES
Ministerial Statement and Paper

MR COLLAERY (Attorney-General), by leave: Mr Speaker, on 25 July 1990 the Minister for Justice and Consumer Affairs, Senator Michael Tate, and I signed an arrangement for the provision of police services in the ACT. Shortly thereafter I tabled the arrangement in the Assembly and noted that it provided for regular reviews of the goals, objectives and priorities and resource levels for policing in the ACT. The first review report was completed before 31 December 1990 and I will shortly table that document.

This first review was limited in its scope as the policing arrangement had been in effect for less than six months and there was insufficient time in which to assess adequately the operation of the arrangement. Accordingly, the report canvasses a range of issues for further consideration. These include performance indicators, consultation, access to information and reporting processes, financial reporting mechanisms, basis of costs, and major capital works requirements for the Australian Federal Police in the ACT region. I would welcome any comment on the report.

A further review is to be completed by 30 June 1991. The policing arrangement will then have been in operation for 12 months and we will have had the opportunity to assess its effectiveness. The review will aim to consider whether the policing service fulfils the requirements of the ACT Government and community, taking into consideration issues of consultative mechanisms, coordination, reporting and performance indicators. It will also aim to examine an appropriate funding base in the context of the ACT budget, to establish the basis of costs, and to assist in determining sustainable budgetary levels under the policing arrangement.

The review will be undertaken by a steering committee comprising SES level representatives of the ACT Government Law Office - who will chair it - the ACT Treasury, and the Australian Federal Police, ACT region. To assist the steering committee, a review team comprising senior officers from these agencies as well as the Chief Minister's Department has also been formed. There will also be extensive community consultation associated with the review process.

The Government has established a community policing advisory committee to assist in the 1991 review. In response to advertisements in the *Canberra Times*, nominations have been received from a wide cross-section of the community. The nominations are for persons rather than organisations, but I give the names of the organisations to indicate the representativeness of those nominees. The

committee will comprise the following persons: Ms Brigitte Ballard, who is, of course, a member of VOCAL; Mr Jeff Brown, who is a member of the Australian Federal Police Assocation; Mr Jim Coates; Ms Anne Darbyshire; Mrs Sue Doobov, who is known to us all from the ACT Council on the Ageing; Mr Joe Giugni, Fyshwick Retail Markets; Mr Michael Kinniburgh; Mr Philip Morrall, who is the 2IC of the overall Neighbourhood Watch system in the Territory; Ms Kim Sattler, who is represented for the time being by Ms Vanessa Sargeant, from the ACT Youth Affairs Network; Mr John Simpson; and Mr Adam Stankevicius. Members will recall that the lattermost is also a member of the Ministerial Youth Advisory Council.

The committee's terms of reference are: Firstly, to gauge the views of the community on the provision of police services in the ACT; secondly, to consider the appropriateness of the goals, objectives and priorities for community policing in the ACT in the light of those community views; and, thirdly, to report to the Government by 17 May 1991. In addition, the AFP, through its consultants Frank Small and Associates, is conducting a long-term survey of community attitudes to policing in the ACT. Two reports have been received to date. These generally indicate that the AFP's community policing objectives are being achieved, although, as would be expected, a number of weaknesses have been identified. These are being addressed to further refine the existing strategies.

As I have said on numerous occasions, the AFP has the total support of the Government in policing the ACT. The review process and the mechanisims for community consultation are aimed at ensuring that the needs and requirements of the community are recognised and taken into consideration. Police services must suit the community. This is particularly important when we consider that the AFP has a dual role; namely, to provide a national law enforcement response on the one hand and community policing in the ACT on the other. The ACT does not have overall responsibility for policing. We must, therefore, ensure that the Commonwealth, through the AFP, is aware of our requirements and orders its priorities accordingly. I present the following papers:

Police services in the ACT - Provision - ACT-Commonwealth arrangement - Review, dated December 1990.
Policing - Review - Ministerial statement, 14 March 1991.

I move:

That the Assembly takes note of the papers.

MR CONNOLLY (3.29): Mr Speaker, although this morning the Opposition was able to agree with the Attorney-General and commend him and congratulate him on the Weapons Bill, this afternoon we must differ. The issue of policing, along with health and education, is one of the basic functions of government and one of the most significant financial imposts upon the citizens of the Australian Capital Territory. It was only in July of last year that the first agreement was signed for the agency arrangement between the ACT and the Commonwealth to allow the Australian Federal Police to continue to provide policing services for this Territory at an estimated cost of some $54m. For this financial year that cost has, of course, been fully met by the Commonwealth.

The question of the appropriate level of policing services for the ACT and the associated cost to the taxpayers of the ACT is one of the most vital questions before this Assembly, and it is a matter that needs to be looked into very carefully. It is not appropriate to simply have a consultant company conduct a public opinion survey and to establish a community consultative committee to advise on this. This Assembly must look into this matter. We have an internal departmental steering committee and we have a community committee, but the vital missing link is an Assembly committee to look into the question of policing. This has been referred to earlier by both Mr Moore and me. It is vital that an Assembly committee, with the power to summon witnesses and documents and with the power and privilege to receive evidence under the protection of privilege, be established. The people of this Territory must have a full and open investigation into the type of policing that they are getting and the cost of that policing. This is simply inadequate and the citizens of this Territory cannot be reassured by an internal steering committee, a community committee - with no powers to summon witnesses and documents and no privilege for evidence given before it - and a series of public opinion surveys to be conducted by a private consultant. It is absolutely vital that this assembly take this matter in hand.

The general financial arrangements for this Territory were simply handed to us by the Commonwealth; we had no say over them. We have an opportunity to have some say over the financial commitment we will assume for policing, but the Government is refusing to allow the Assembly to look into it. It is simply an inadequate response and the Assembly must demand a full inquiry into this matter by way of an Assembly committee to allow the people of the Territory full information as to the type of police force that they will, in the long term, be paying for.

MR STEFANIAK (3.32): I am somewhat unsure of what Mr Connolly is getting at. This is a six months review; there is going to be another six months review. The ACT Government has on contract a section of the Australian Federal Police for the policing of the Territory. That police force basically comprises people who are long-term residents of the Territory. Because they are part of the AFP, some of them might take postings out of the Territory to advance their careers, but most of them choose to live in Canberra because it is a pleasant place.

We have a very effective community police force. We have had one, indeed, since the Territory's inception. Certainly in my time in the Territory - and I have lived all my life here apart from about three years - the ACT police force has always had an excellent reputation. It became the AFP after 1979 and continued to have an excellent reputation.

This Government has initiated a number of things in relation to policing. This is the first of the six-monthly reports since we took over the police. Mr Collaery has indicated that the agreement was signed last year. We now have this first six-monthly report; there will be another one. The Attorney has spoken of the steering committee, comprising, among others, Treasury officials, to look into the question of policing in the Territory. He has today announced his community committee. I had the pleasure of meeting those people. I had met some of them before my meeting with the rest of them at lunchtime today, and I think that will be a very effective committee.

The police themselves conduct regular surveys, and I think I can recall one being conducted with its results due to be brought down in about August or September of next year. I fail to see the need at this point in time for another Assembly committee to look into the question of policing in the ACT. Mr Connolly is quite right in saying that probably the three most important things in the government of this Territory are the health of the community, education and certainly policing and courts. They are very important aspects of government. Policing is a terribly important aspect of government and I think this Government is doing a very good job in relation to policing the Territory.

Really, it is a question not for another Assembly committee but for this Government to do its job properly regarding the adequate policing of the Territory. And that also involves how much has to be spent on the police force. If people are not satisfied with that, they can exercise their rights at the next election at the ballot box. I really fail to see what real assistance at this stage another Assembly committee could give to the question of policing.

I make one further point in relation to this matter. I can recall over the last few months some criticism - not too much, I might say - coming from the Opposition benches in relation to the cost of policing. Mr Collaery has given a figure of $54m. During the gun debate, which I was expecting Mr Stevenson to participate in a lot more than he did - - -

Mr Connolly: We have not seen him since then.

MR STEFANIAK: I have not seen him since he was here earlier. I saw some figures in relation to police on the beat and the number of police in America. These figures showed that America was the most violent country in the world in terms of countries where crime statistics are kept, with about eight times more murders than Britain, 150 times more burglaries than in Japan and similar types of figures. But they also showed that for one major crime in New York in 1950 there were about five police and now that has been totally reversed. In 1990 I think that for every three major crimes there is only one policeman at any given point in time on the beat.

The point of that is that the number of police in the United States has in fact dropped in relation to the increased population, and that has led to a significant increase in crime.

Mr Moore: You cannot draw that conclusion. Come on, Bill.

MR STEFANIAK: The conclusion in relation to that is - I say this to the Opposition in case they are thinking we should save $10m or $20m on policing - that the adequate policing of the Territory is, unfortunately, going to cost a lot of money. You might be able to tinker a little bit with $54m; you might not. But I would not like to see us attempt to save large sums of money in the policing area if it led to less effective policing of the Territory because, just as any nation's insurance policy is an adequate and strong defence force, for an internal community of a State or Territory, such as that of the ACT, its insurance policy against lawlessness is basically an efficient, effective police force. I really think we have to be very careful if we are talking about cutting sums of money from any part of the budget, and if there is any area that really should not be cut - because doing so can have disastrous effects - it is the area of policing.

The Attorney-General has done all he can in relation to the adequate policing of the Territory to date. He has established what I consider to be quite proper committees. I cannot see any need for an Assembly committee. At this stage it would be duplication. Really I do not think Mr Connolly has made out to us what on earth he really wants that committee to do.

MR MOORE (3.37): I really find it difficult to believe what I have been hearing from Mr Stefaniak. I will take up a couple of points he made. The first one refers to the statistics from the United States which Mr Stefaniak presented. Whilst I accept that his statistics may be quite reasonable - and I do not question them - the conclusions that he drew from them defy logic. He drew one possible conclusion from them, but there is a whole series of possible conclusions. So, to argue in that way is totally inappropriate, particularly in light of the fact that the research of the Australian Institute of Criminology has found that once a certain amount of money is spent on a police force - and we do not know at this stage whether it is the case with the ACT police force or not - the injection of further funds has very little impact on the crime rate.

All I am saying is that if we consider those two things together it requires, obviously, a much closer look. What Mr Connolly has suggested is to put in the vital link - and the vital link that he is talking about is an Assembly committee. In fact, when I proposed a motion for an Assembly committee on this matter some time ago, Mr Collaery said that it would be an inappropriate time to have it and that the Government would consider that proposition - he did not say that he would do it - at about this time in this year.

I think what Mr Connolly is doing is saying to the Attorney-General, "Your view of policing and the community group that you have established are good" - it is positive and he is not being critical, and nor am I - "but it is also time to add a vital link in the chain, and that is to allow an Assembly committee to inquire into the financial aspects". Mr Stefaniak, put yourself in our shoes - and you may well find yourself there before too long - in opposition. You will see that one of the roles that you could play in a positive way would be to have a committee to inquire into such things. If you do not have that committee to inquire into such things, the likely result is that the only technique left to members in the Opposition is to make comments in a public way.

Mr Duby: Sit down.

Mr Collaery: Unctuous!

MR SPEAKER: Order! Thank you, Mr Moore. Mr Collaery?

Mr Collaery: Thank you, Mr Speaker. I stand to - - -

MR MOORE: Oh, Mr Speaker - - -

MR SPEAKER: Order!

MR MOORE: I sat down merely to allow a member to take a point of order. You were saying "Order!" and I sat down to allow you to do that. I am certainly not finished my speech, Mr Speaker. It is highly irregular for - - -

MR SPEAKER: Please proceed.

MR MOORE: Thank you, Mr Speaker. It is clearly the case that an Assembly committee would have the additional advantage of providing a look into the financial aspects as well as the policing aspects of this particular agreement. But what we are particularly concerned with is that financial aspect. We are certainly aware that the Grants Commission suggested that, as I recall, about $27m was the appropriate amount of money for us to be spending on police, according to the criteria it had set some years ago. It may well be that those criteria have entirely changed and $54m is the right amount of money to be spent. We do not know that. It is quite appropriate, therefore, for a committee of this Assembly to look into that matter.

I support Mr Connolly's call for the Attorney-General to give further serious consideration to this third aspect, this vital link of establishing an Assembly committee to look into policing in the ACT and its cost.

MR COLLAERY (Attorney-General) (3.41), in reply: Mr Speaker, I rise briefly to respond to Mr Connolly. I have no response to give to Mr Moore. As far as I am concerned, he is not worth commenting upon for the rest of the time he is in this chamber. Mr Connolly made some valid points. It is just a matter of timing, as I mentioned earlier. I remind him that the Federal Government still has overall statutory control of the AFP. There are some constitutional, legal and operational difficulties, in my view, at this time in having a select committee of this Assembly calling Senator Michael Tate's officers, in effect - not only his uniformed officers but also the civilian advisers he has in the Australian Federal Police - before this Assembly. They are issues that we need to resolve - - -

Mr Connolly: They cooperated with the Estimates Committee very well.

MR COLLAERY: Mr Connolly says, by way of interjection, that it operated well; but he well appreciates that it is an entirely different issue to talk about a select committee being established to examine, in effect, the Federal Government's police administration policies. There is a need - and we have faced it in another area recently - to work out how the Federal Government and the Territory Government, given the unique seat-of-government nature of the Territory, can get together where we have joint parliamentary interest in an issue that affects us both. I believe that we are going to see similar issues arise in the planning area, but that is not for me to comment upon here.

Given the fact that that cannot be worked out easily at this stage, and given the fact that the financial issues are largely, as everyone candidly admits, uncharted waters, it seemed appropriate and prudent, in my view, to form the professional working parties that I have mentioned; to publicly advertise for people to join a committee to put their views to us; to require information from the police while they conduct themselves as they see fit within those terms of reference I read out; and to have those people meet an early reporting date.

Members will note that the reporting date is quite soon; it is May of this year. At that stage I believe that there may be more substance, coming from both the fiscal review and the community's input, for a smaller, more focused examination of the matter by this Assembly. I am not saying at this stage that we can overcome the problems I have mentioned earlier. There will be a need for bilateral discussions between governments and, presumably, protocols and understandings and things of that nature.

But both of our parliaments have largely untrammelled rights of inquiry within the conventions of parliament, and there is a clear problem for us having that review at this early stage with so little on the table and so much to find out about so many years of policing in the Territory. I endorse the comments that my colleague Mr Stefaniak made in the sense that he is telling the house to be confident that a delay in having any inquiry of the type that Mr Connolly called for will not be to the prejudice of the citizens of this Territory. I think that is an important aspect.

So, in summary, I am sure everyone appreciates that the police arrangement is probably one of the few areas where we are having a foreknowledge and an insight into taking on fiscal responsibilities before we do so - unlike in other sectors of government where the fiscal responsibilities were thrust upon us at the time of self-government. I believe that we need to work very carefully towards it. I accept without reservation the importance of select committees of inquiry, but I feel it is premature to have that type of searching inquiry - I believe that Mr Connolly used that word - at this stage. I believe that it would be better to soak up community opinion through that mechanism, to get the facts on the table and to find out exactly - both of us, Federal and Territory - what we have on our hands and how best we can deal with it.

Question resolved in the affirmative.

PUBLIC WORKS CONTRACTS
Discussion of Matter of Public Importance

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

> The failure of the Government to properly and prudently administer public works contracts in the Australian Capital Territory so as to protect the interests of subcontractors and suppliers.

MR CONNOLLY (3.47): Mr Speaker, this is a matter of real concern to a large section of the ACT community, and a matter of particular concern to the trade union movement in this Territory. This is an area where the trade union movement is not so much defending the rights of employees, which is what one normally thinks of as the role of the trade union movement, but standing up for the rights of self-employed small business people who, perhaps in the popular mind, would not be seen as fertile ground for trade unionists.

But, in fact, a lot of independent small businessmen, subcontractors in the building and construction industry, are proud members of their trade unions and the trade unions in this Territory have been doing a very positive job in advancing their interests. It is unfortunate that the union movement in the Territory has had to devote such resources to advancing their interests because of the tragic series of collapses of major head contractors or project managers, which has resulted in a couple of prominent fiascos on building sites in this Territory.

To some extent we are traversing well-travelled ground here, because the Opposition sponsored a matter of public importance late last year in relation to the Shelleys fiasco, and I will not go over that ground again. At the time of that debate, the Minister, Mr Duby, assured the house that improvements had been made, and that, in particular, the project management technique ought to operate to ensure that individuals were not again left high and dry, having performed a lot of work but not being paid. That reassured the community to some extent.

At the time the Opposition was calling, very strongly, for more prudent methods of administration within Public Works. It was calling for a system of checking to ensure that subcontractors and suppliers were paid on a monthly basis before the next month's cheques were paid out to the head contractor. That demand was met with some ridicule by government spokespersons. There was a suggestion that we were calling for an army of bureaucrats to be overseeing every public works contract, and that what the Opposition was calling for would be impracticably expensive.

Mr Speaker, it would not be necessary to employ an army of bureaucrats to make improvements in this area. What we are proposing in, I hope, a constructive manner today - and I hope that the Minister will take some of these proposals on board as constructive suggestions, which is what they are - is a small audit team within Public Works, allied with a hot line.

The Hunt Boilers fiasco was a public works project that was using the project management technique. The project manager was supposed to be checking that people had been paid. It was clearly apparent that that technique had broken down. Subcontractors and suppliers would telephone either the project manager or the head contractor, Hunt Boilers, which, of course, was in an unusual position of effectively being the sole contractor under a project management technique while itself subbying the jobs. The subcontractors and suppliers were repeatedly calling both the project manager and the head contractor, saying that the payments had fallen behind; they were one month behind, two months behind, three months behind, in one case, I think, four months behind, but nothing happened. Cheques were still being paid across by the Government to the project manager and from the project manager to Hunt Boilers, the head contractor, right up until the time that Hunt Boilers abandoned the site and retreated to its Brisbane bunker.

Mr Speaker, that could have been avoided, or at the least could have been substantially ameliorated, if the Opposition's proposal had been adopted by the Government. A small audit team is needed, operating within Public Works, to regularly check the books of project managers and their contractors on a random basis to ensure that subbies and suppliers are being paid before each month's payment is passed across. That small audit unit - and we need to talk about only a couple of officers - would need a clearly identified hot line - and it would not take much to have that hot line clearly identified because the trade union movement in this Territory would provide your free advertising service. It would soon make sure that all of its members were aware of this complaints number. If that simple technique were adopted we could be in a situation where, if another collapse occurred, all that people would be out of pocket would be a month's payments.

The Opposition is not saying that this Government or any government can guarantee that there will never be a bankruptcy in the building industry. That is not in Mr Duby's power; that was not in Mrs Grassby's power. That will never be in the power of any Minister for Urban Services. But the Minister can take action to ensure that, if a collapse should occur, damage will be minimised. I am told by persons involved in the construction industry - by people in the union movement and by the large number of subcontractors and suppliers that I have come across as a result of dealing with the unions on the Hunt Boilers dispute - that this technique would be effective and would be a step in the right direction.

So, Minister, that is a proposal that the Opposition is putting up in good faith to help the industry in this Territory and to help the many small subcontractors and suppliers. It is a simple technique of adopting a random audit unit within your department, well advertised and with a hot line, so that should problems begin to occur people have a person in the Government to speak to who can check it, and so that all head contractors or project managers are aware that their books may be looked at.

Another technique which may improve the position of subcontractors in relation to public works contracts is a proposal that the Opposition hopes to introduce some time in these sittings by way of private members' legislation to give subcontractors in this Territory the same legal guarantees that subcontractors have been given in Queensland, by way of a form of security over money being owed to head contractors. Queensland is the only State in Australia which provides this form of security by way of the Subcontractors' Charges Act, and it would be a step in the right direction for similar legislation to be introduced in the ACT. Again, it is not the sole answer; again, it does not guarantee that there will never be collapses in the building industry. By the nature of things, that cannot be done. But it does give subbies some degree of additional security by moving them up in the list of creditors.

The sad reality is that usually, when there is a collapse, it is banks and secured creditors that have first call on such assets that may remain in the collapsed company, and by the time unsecured creditors are paid there is very little, if anything, to go around. If there is any payment at all, it is a matter of a few cents in the dollar. So, that is a second technique which could be looked at. I am giving notice that the Opposition is moving in that direction; but we would, of course, be delighted if the Government were to take up that initiative itself and move it along.

So, firstly, we are talking about a random audit unit; and, secondly, we are talking about giving some additional security to subcontractors. The third suggestion for this Government's attention - and again the Opposition is putting forward positive suggestions to deal with a real problem in the community; we are not just taking points here - is to consider the viability of some form of insurance scheme within the public works contracting area; that is, to require as a condition of awarding public works contracts that there be a degree of indemnity insurance to ensure that subcontractors will be paid for work done in the event of a collapse.

That type of insurance is well known in the community. It has been established by the Housing Industry Association through a consortium of underwriters to provide a degree of protection for home buyers in this Territory. That system works very well to the satisfaction of all concerned, and it is not particularly expensive. It is also of note that, where you have a major collapse like the Hunt Boilers situation, some people, of course, do have this form of insurance. It is not uncommon for some suppliers to arrange this type of insurance privately, and the head contractor is often unaware of the fact that they are actually paying for this insurance by way of a slight mark-up on the goods, perhaps. In the Hunt Boilers dispute one of the major suppliers which was owed a considerable debt was, in fact, in the fortunate position of having this form of insurance, and it merely had to move to put the company into liquidation in order to be able to claim on that insurance contract.

So, this type of insurance is presently in the industry, privately arranged for the benefit of suppliers. The trade union movement is presently looking at the viability of privately arranging this for the benefit of individual subcontractors, but it would be a positive move for the Government to take the initiative here and look at requiring a form of compulsory insurance as a condition of getting public works contracts. Of course, that would lower the overall cost of this insurance to all concerned. A potential problem with individual subcontractors seeking to get this insurance is that the premiums could be fairly high, because the insurance industry would consider that perhaps it was only contractors at risk that would seek the insurance. If it was an industry standard and required as a matter of course, the premiums would inevitably be lower. As I say, it is a system that has been proven to be effective in the housing industry.

So, Mr Speaker, there are things that the Government can do to solve this problem. The Government is not helpless; it can act, and it must act. Mere assurances are not sufficient. We were told when Shelleys collapsed that it would not happen again, because we were told that the project management technique was far more efficient. We were told that there was a problem with simple contracts to provide work, because there was no control over who the subcontractors were and what occurred. We were told that, with project management, the project manager would parcel the job up into small segments to be performed by different subcontractors and would monitor the payments.

The circumstances of the Hunt Boilers dispute lead to a concern that that process is being subverted. What happened there was that, although it was a job ostensibly undertaken by way of project management, the project management consisted, in effect, of giving one contract to Hunt Boilers to do the whole job. In effect, it was a simple contract for building rather than a project management technique. Hunts then, itself being a

subcontractor under the project management, sub-subcontracted - if that is the term, and I am sure it is not the term - that is, let the job by way of small contracts. But Hunts did that, not the project managers. And that meant that, if the small contractors concerned rang the project manager, they were told, "Well, that has nothing to do with us; we are not project managing this job in the sense of ourselves letting out the subcontract". And when they rang Hunts they were usually unable to get an answer.

Mr Speaker, that was an issue of real concern, because we had been told by Mr Duby at considerable length, both in this house and at the Estimates Committee, that the project management technique would lead to a more secure environment in the building industry for subcontractors. Sadly, the experience of the Hunt Boilers dispute showed that that is not the case.

Mr Speaker, in summary, the Opposition is not so naive as to suggest that the Government can avoid collapses in the building industry. The Opposition is not so naive as to suggest that these problems occur only in the ACT, because we have seen that similar problems have occurred recently in New South Wales and led to a major problem on the Goulburn bypass. But there are things that the ACT Government can do to reduce the problem. The three proposals that the Opposition is putting forward - and, as I say, putting forward in good faith for the Government's consideration - would go some way towards ensuring that subcontractors and suppliers in this Territory would be more secure and their interests would be better protected. Hopefully, we would see less of the sort of real distress that Mrs Grassby will refer to in her remarks - the distress of small business people in this Territory when a major public works contract collapses.

MR DUBY (Minister for Finance and Urban Services) (4.01): Mr Speaker, frankly I am quite amazed that the Opposition has raised this as a matter of public importance only six months after it previously raised the issue. At that time I gave a comprehensive reply, which should have satisfied Mr Connolly, that the ACT Government can and is competently managing its public works. In my statement at the time, I referred to the Government's purchasing policy which ensures fairness, equality of opportunity, and best value for money for the Government.

Mr Speaker, this policy is available to all private sector organisations or indeed anyone who may be interested in dealing with the Government. I would suggest that perhaps Mr Connolly should get himself a copy of it so that he can understand what the heck he is talking about. I also explained how my Public Works department ensures the quality of its works and the consequent value for taxpayers' money. In that statement I also went into some detail about the failure of R and G Shelley Pty Ltd, which caused the matter of payments to subcontractors to first become an issue in the ACT.

Since that time, we have seen the implementation of rolling work bans supported by the Opposition for political - I repeat, political - and not industrial ends. Even the arbitration commissioner would not rule that the issue concerning bans on work in closed schools was industrial.

These actions have not helped the construction industry and its subcontractors at a time when the industry, like most of the economy, is going through a severe recession, and going through a recession brought about by the policies of the Federal Labor Government - this Opposition's colleagues.

Public works procedures which utilise standard contractual forms are common to the public works authorities in all States and Territories. Frankly, Mr Speaker, they have stood the test of time. The problems that the building industry is experiencing at present are the result of the disastrous economic climate created by their friends in the Federal Parliament - created by Mr Keating - and not the result of the procedures used by the government public works group.

Mr Connolly: Ratbags.

MR DUBY: Who is a ratbag?

Mr Connolly: The ratbags in the community that usually get blamed.

MR SPEAKER: Order!

MR DUBY: The high interest rates and the current recession are putting enormous pressure on all sectors of private business, and bankruptcies are at an all time high. That is nothing to do with the public works area. That is a direct result of Mr Keating's policies. The construction industry has always been one which suffers badly in such conditions, when private sector investment ceases, when people cannot get money, and when interest rates are held artificially high for overdue periods of time.

These conditions impact on contractors and subcontractors who rely on work both from the private sector and from the Government for their viability. I acknowledge that it is particularly important that in these circumstances Public Works should scrutinise the contractors who are given projects to ensure that they are viable. I can assure Mr Connolly that this is being done.

Whilst there have been several contractors who have experienced financial difficulties in recent times, I think we should put this into the context of the program of work managed by my Public Works department. The total program at any one time is about $300m for capital works and around $50m for maintenance, which generate a cash expenditure in excess of some $200m. This program utilises some 3,000

contracts for new works and about 2,000 contracts for the execution of maintenance work. Think of that. Something like 5,000 contracts are going at any one time. In what has always been acknowledged as a relatively high risk industry, the construction industry, the performance of contractors of all sizes has been largely trouble free, considering the economic climate over the last 12 months.

In the serious cases of company failure that have occurred, the problems have often been brought about not, in my opinion, by the firm's construction activity, but by firms venturing into high risk development projects. Often the steady workload coming from their construction arm has supported other less viable parts of their business. I guess that what we have is the situation where frankly firms that are good at one thing try to expand into another area where they are not as good, and as a result they find themselves in difficulties.

Mr Connolly mentioned the Shelleys collapse - the collapse of R and G Shelley. Following the collapse of that company, I instructed that procedures be tightened for the management of project managers' funds, and this has been done. There is no "We are going to do it" or "We are reviewing it" or anything like that. The simple fact is that that procedure has been introduced. The tightening of those funds has been introduced into the system and is currently in place.

A thorough financial investigation is carried out for all contracts and, where there is any doubt about a contractor's viability, this assessment is being checked through a private enterprise service. The financial assessment involves an examination of balance sheets, bank information and statements, liabilities and assets and forecast cash flows. Major suppliers and subcontractors are contacted regarding payment history, and details on directors, shareholders and partners are thoroughly examined. This information is supplemented through credit bureaus and, where doubt still exists as to the financial viability of the company, a second opinion is sought from a chartered accountant using the corporate scorecard system of assessment.

In addition, to further protect subcontractors in these difficult times, I have instructed my department to explore options to ensure that payments made to the head contractor flow to their subcontractors. In response to this request, we have added a clause to the contract which allows Public Works to demand a statutory declaration certifying that the head contractor has paid his subcontractors all moneys due from the previous claim - and we do not shred it. This clause is invoked when advice is received that payments are not being passed to subcontractors.

I have also taken a number of other steps to further reduce the contract risk for contractors and those suppliers and subcontractors who deal with them. As my colleague Mr Jensen announced during the previous debate on this subject some six months ago, we have established a public works forum which includes representatives of unions concerned with the building industry, employer and contractor associations, representatives of suppliers and, of course, the Government. This forum has been meeting regularly and, in fact, Mr Speaker, a meeting was actually convened today.

Mr Connolly: How many times did it meet between Shelleys and Hunts?

MR DUBY: The forum has addressed a number of issues and is currently considering how best to address the issue of security of payments to subcontractors and suppliers. The question that is asked is, "How many times has that forum met?".

Ms Follett: Between the Shelleys and Hunts collapses.

MR DUBY: The simple fact, of course, is that the forum could not be established until the union mates of this crowd over here agreed to join the forum, which they never did. They were asked on three occasions. Correspondence was directed between my department and the Trades and Labour Council, asking for nominees to attend that forum, and on each occasion that request was denied. It was not denied; it was not even acknowledged. There may be something wrong with Australia Post or the fax machine at Trades House. But the fact is that they would not join. So, it is no good complaining about the party if you are not going to go along to it.

Mr Speaker, their work will be supplemented, I believe, by the micro-economic reform initiatives taken by the Federal Minister for Administrative Services. One of the major agenda items before the committee reviewing contractual matters as part of the building and construction industry reform strategy is the issue of security of payments and the assessment of contractors. As I said previously, Public Works is now utilising a clause in its contracts which allows the superintendent of the contract to demand a statutory declaration from the head contractor that all payments due have been made to subcontractors, suppliers and employees before further progress payments are made. Should this not be provided, payments may be made directly to the subcontractors.

Project management arrangements have been tightened to ensure that all payments due to contractors working for project managers who are agents of Public Works are paid through a specific project account. The Public Works accounts staff has also been increased, to ensure a more thorough audit of these accounts each month. As I mentioned earlier, the assessment of the financial viability of contractors prior to the awarding of contracts

has also been widened to utilise private sector credit bureaus for any doubt that arises in the initial assessment.

Mr Speaker, Public Works has this year issued an interim code of tendering which sets out the procedures and processes which are used in the calling and letting of contracts. This document provides a clear presentation of these procedures for all those contractors who deal with Public Works. I would encourage any contractor who wishes to make constructive comment on these procedures to provide it to me, so that a final code of tendering can be issued late this year. I also invite the Opposition to join in that process. The invitation is there for its members to obtain a copy of that code and to make any suggestions which they feel are positive. But, of course, we would not get a positive suggestion from Mr Connolly at the best of times.

While the construction industry will always remain a high risk industry and, consequently, in times of recession such as we are experiencing now - through, I might add, no fault whatsoever of that industry, but instead through the fault of the Federal Labor Government - there will be companies which fail, I believe that the Government's Public Works department has done a thorough job of assessing its contractors and managing what is a major program of works. There is always room for improvement - I will not deny that - and I hope that the work being done by the public works forum and the Federal Government's micro-economic reform initiatives in the building and construction industry will result in procedures which provide even more security for our contractors.

Mr Speaker, during his comments Mr Connolly specifically mentioned the problem with Hunt Boilers. During that he implied some things that I think need to be answered. The simple fact is that the project manager on the Hunt Boilers contract did not do anything incorrect. Project Coordination Pty Ltd did check far more than was required under the terms of contract. It also ensured that payments due had been made before it made its last payment. It is only in the last month of the contract that the Hunt Boilers problem arose. Prior to that, all payments had been made to subcontractors and suppliers as required.

I know that this is tiring, but it has to be said. I think it is also worthwhile pointing out that Public Works did audit Project Coordination Pty Ltd's books to ensure that it was making those payments. So, all those calls for a regular ongoing audit system to be established have been answered already. That work has been done, and it has been done in the past. The simple problem with the construction industry is that some day, one day, a firm is going to go into liquidation and the last month's payments are always going to be a problem.

Mr Connolly: We accept that, but it is the three or four months of payments that are the problem.

MR DUBY: That is not the case with Hunt Boilers. It was not the last three or four months; it was the last month's payments that were the difficulty. It should also be pointed out in relation to the Hunt Boilers problem that the contract for the Hunt Boilers job was in place before the Shelleys group got into difficulties and went into liquidation. In other words, this contract had been in place before the procedures that I had introduced as a correction, or as a method of streamlining the processes of payments to companies, were introduced as a result of the Shelleys collapse. All subcontractors for the Hunt Boilers contract had been advised publicly to be involved in the contract.

The other thing Mr Connolly mentioned was that we should be following some steps as, for example, the Queensland legislation. I am pleased to say that we are doing that. The Queensland legislation is currently being examined by the public works forum. As a final point, he mentioned the fact that we should be taking out some form of insurance. I guess it should be pointed out that the mortgage insurance that Mr Connolly put up as an example of what could be introduced does not apply to contractors; it applies to people who are taking out mortgages; it applies to house purchasers, not to the builders.

So, all in all, I think the points raised by this supposed matter of public importance are frankly quite spurious, and I just hope that Mrs Grassby can perhaps show us in the Government where the problems are arising, because Mr Connolly did not.

MRS GRASSBY (4.16): I do not know whether Mr Duby is going to be any happier with my speech, but as far as I am concerned I think Mr Connolly did hit the nail on the head. Let me start by making the point that the constructive measures highlighted in Mr Connolly's speech on this matter are what relevant and accountable government is all about.

Mr Jensen: It must have had a small head.

MRS GRASSBY: Mr Jensen, anybody who told you that you were a big thinker obviously lisped. I cannot be on my feet for five minutes before you have a go at me; it is incredible.

This is what accountable government is all about, or, more to the point, should be all about, because those opposite lack both the interest and the foresight in this fundamentally important area to have done anything constructive. This is why the public works contracting system is in such a shambles in this Territory. This is why the Labor Party has brought this issue before this Assembly as a matter of public importance.

Mr Speaker, let us go back to the Hunt Boilers dispute at Royal Canberra Hospital North. What is significant about the dispute, Mr Speaker, is that it occurred shortly after the R and G Shelley debacle - a debacle which highlighted the flaws in the public works contracting system in this Territory. And what was the outcome of this R and G Shelley debacle? Those opposite said that they would not allow such problems to occur again, and that they would implement what is known as a project management scheme.

Mr Speaker, this sounded wonderful; but, of course, this was nothing more than an illusion brought down by this Government in its efforts to pretend to be caring and responsible managers of the public purse. What the Hunt Boilers dispute highlighted was the fact that the Government did not introduce the project management scheme as a means of improving the public works contracting system in Canberra; it simply introduced the system as a means of making itself less accountable to the process. The Government turned around during the Hunt Boilers dispute and argued that the problem was not of its making, and consequently not its responsibility. It said that it had appointed project managers to manage the entire project, and consequently the subcontractors and unions and the Labor Opposition should look elsewhere to blame someone else.

To clarify this point, Mr Speaker, I think I should briefly explain the project management scheme, for the benefit of those present. The project management scheme is supposed to be a means of ensuring financial accountability on the part of the major contractor. The project managers are expected to look at the receipts of the major contractor, with the aim of making sure that they have paid their subcontractors and suppliers and that the project is going according to plan. Therefore, instead of an arm or a section within the Department of Urban Services overseeing the project, the project managers will fulfil this important role.

Mr Speaker, the significant point that I wish to make here is that during the Hunt Boilers dispute the responsible Minister and his departmental officials argued that they bore no relation to or responsibility for the failings of the project managers. They said that there was no link between them, the Government, and those whom they had appointed to oversee the operation of the project. Mr Speaker, I need not tell you that this came as quite a shock to all those involved. Let me tell you, those subcontractors, the unions and I could not believe that this argument was being put up by the Minister. To be quite frank, what do the Minister and his senior departmental officials get paid to do? I am not sure that I know, but obviously they do. Certainly, they are not paid to delegate away their responsibilities. They are paid to manage and, hopefully, to manage efficiently and responsibly. I stress, hopefully, Mr Speaker, because it was clear to all involved that the Minister had not done so.

Mr Speaker, I think it needs to be stressed just how important construction is to Canberra and our economy. It is a significant employer in this town, and consequently adds to the well-being of many. Let us remember that, when we talk about a major contractor going broke and not paying their subcontractors, this means that real people and real families suffer. It means that mortgages go under, threats and tensions increase in households, and life is made pretty much unbearable for those involved.

Mr Speaker, this is the human side of this Government's failure to properly and prudently administer public works contracts in this Territory. This is not simply about some figures on a balance sheet or a few more intangible statistics to be noted. This is all about bad government ruining the lives of good people - those good people, Mr Speaker, who will be voting on this Government's performance in the near future. So, it does not matter what hollow rhetoric those opposite present in this debate; what matters is the people's judgment on the way they have governed to date, and how they have failed to manage the public works contracts in this Territory.

Mr Speaker, I have thought long and hard about why this Government has failed to do anything constructive in the area of public work contracts. I have thought about the legal problems which might be involved. I have thought about the administrative problems which might be involved. But, Mr Speaker, I have also thought about the personalities involved in this Government, and, sadly, I think this is where the problem lies.

It lies with the stubborn qualities of its Minister and its Cabinet - a Cabinet, Mr Speaker, which is well saturated with the patronising big "L" Liberals' attitude of leaving the market to do its own thing. Of course, leaving the market to do its own thing does not mean no accountability for those at the top, nor does it mean that safety checks and proper procedures should not be implemented to make major contractors liable for their mistakes. It simply means that the little guy gets trampled on and is left to suffer without the protection of the Government.

Mr Speaker, this is why we will be introducing legislation into this Assembly which will look to protect subcontractors and give them the equal standing in the eyes of the law which other major creditors, such as banks, now enjoy. This, Mr Speaker, is all about the responsibility of government, and that is what we all are supposed to have. That is what we were voted here to do, and that is what we are supposed to have. Mr Speaker, it is all about administering public works contracts in a proper and prudent fashion.

MR JENSEN (4.24): Mr Speaker, sometimes I think I must have a lisp, too. When I am referring to Mrs Grassby in this place, sometimes I refer to a well-known female animal that was very popular in the States and a friend of Mickey Mouse; but let us get on with the debate at the moment.

Clearly Mrs Grassby was not listening to my colleague Mr Duby, and could not change her prepared speech, so she had to continue on with - - -

Mrs Grassby: I was listening to him, but he was still wrong.

MR JENSEN: If you were listening, Mrs Grassby, you obviously did not listen very well, for my colleague Mr Duby clearly indicated that the processes identified as necessary after Shelleys closed have been in place and monitoring was, in fact, taking place. However, there were no problems up until that last month. Mrs Grassby's colleague Mr Connolly accepts that the last month will be a problem area for those firms, particularly in the contracting business, that go into liquidation.

There is always going to be a problem in that particular industry because of the nature of the industry, and it is appropriate, I think, to make sure that actions are in place to minimise the damage that may be caused by such problems. I believe that the processes and procedures that have been put in place and are being put in place by Minister Duby, who clearly has taken a hands-on approach to this particular matter, are quite obvious.

In the Hunt Boilers case, Mr Speaker, the project manager did not fail; a contractor working for the project manager failed. It was effectively a head contractor as in the Shelleys case, and the project management system worked well, as my colleague Mr Duby has pointed out. But, Mr Speaker, like my colleague Mr Duby and, I am sure, other members of this house, I am totally amazed that the Opposition is so bereft of ability that it needs to recycle its questions or issues every six months. Recycling is a major plank in the Government's environment policy and maybe the Opposition is seeking to lift its game in this area at last; but I would hope that it would stop recycling the same old issues all the time and start to bring up some new issues a little more often.

As my colleague Mr Duby has stated, the Government has already implemented a number of initiatives to reduce the risk to the Government and to subcontractors. These initiatives, as detailed, covered both administrative and contractual issues. It is apparent to me that the Opposition does not yet understand the nature of and procedures associated with a building and construction industry, and has no real concern for those employed in the industry. That must be the case, because there is no other answer for it, quite frankly. The rolling strikes referred to by Mr Duby are a case in point.

Mr Speaker, the manipulation of workers and their time and money to fight what are, in some cases, essentially political battles is to be deplored, when issues of this nature, quite frankly, belong on the floor of the house, provided, of course, that they are not continually recycled by an opposition bereft of any ability. I might take this opportunity to educate those across the floor on the basic procedures associated with the building and construction industry.

The types of tenders that we are talking about and that the Government invites are as follows: Firstly, public tender, which is used, by preference, because it gives small contractors an opportunity to participate; secondly, public advertisement, with no restrictions on the number of tenders sought; thirdly, selected tender, when a limited number, usually six or less, are selected because of proven experience or recognisability, and so on; fourthly, negotiated tender; and last, but not least, prequalified tender. All these options are utilised by the Government as circumstances warrant; but, principally, the fairest system, when projects are well defined, is the calling of public tenders. Selected tenders, to provide detailed expression of interest, are used for the selection of project managers.

Mr Speaker, conditions of contracts used by the ACT for public works are identical to those used by the Commonwealth and the States for public works, that is, the national Public Works Committee edition No. 3. This is an effective contract which has been developed over a number of years with the express purpose of having a contract suitable for the use of public authorities. I would like to remind the Opposition that not only has the Government taken immediate action to reduce the risk to Government and subcontractors, but it has established - as my colleague has already indicated - the public works forum which has an ongoing role to examine issues of common concern to the building and construction industry. Maybe, if Ms Follett is as good at fixing things as she claims to be, she could get her colleagues from the Labor movement involved in this particular forum.

This forum is actively participating in the Federal Government's building and construction industry development strategy committee, and it is providing comments relating to issues associated with the local industry to the committee. It is expected that real reform to the industry will follow the outcome of the committee's findings. This is in complete contrast to the Opposition's total disinterest in this matter when it was in government.

Discussion interrupted.

ADJOURNMENT

MR SPEAKER: It being 4.30 pm, I propose the question:

That the Assembly do now adjourn.

Question resolved in the affirmative.

Assembly adjourned at 4.30 pm until Tuesday, 19 March 1991, at 2.30 pm