DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

17 April 1991

Wednesday, 17 April 1991

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

HEALTH SERVICES DETERMINATION
Motion for Disallowance

MR BERRY (10.31): I move:

> That the determination of fees and charges as contained in Determination No. 8 of 1991, and made under the Health Services Act 1990, be disallowed.

This motion is to disallow the determination of fees and charges of the ACT Board of Health. These determinations are made periodically to set the fees charged by the Board of Health. The sorts of fees that we are dealing with relate to types of services which include, among others, hospital bed charges and nursing home bed charges. The power to set these charges is embedded in the Health Services Act, and under that Act the power is vested in the Chief Executive of the Board of Health. I refer you to section 29 of the Act, which says:

> The Chief Executive shall -
>
> (a) manage the health services and health facilities under the Board's control; and
>
> (b) carry out the other functions of the Board;
>
> on behalf of the Board and subject to, and in accordance with, any directions given by the Board.

Section 31 of the Act states:

> (1) The Board may grant leave of absence to the Chief Executive for any period not exceeding 8 weeks on such terms and conditions as the Board determines in writing.
>
> (2) The Minister may grant leave of absence to the Chief Executive for any period exceeding 8 weeks on such terms and conditions as the Minister determines in writing.

Mr Speaker, section 33 states:

> (1) The Minister may terminate the appointment of the Chief Executive for misbehaviour or physical or mental incapacity.

Section 33 then goes on to identify the specific grounds for termination of the appointment of the Chief Executive. Section 34 deals with the appointment of an Acting Chief Executive, and I think that is a key section of the Act.

Mr Speaker, the state of play in the ACT is in doubt, and that is the reason for this disallowance motion. Basically it goes back to the stream of mismanagement difficulties within the hospital and health ministry in the Australian Capital Territory. In the debate about his health budget blow-out, we have to ask the question, "What has the Minister said about the financial control of the health system?", and we have to look at what has actually been happening.

Mr Speaker, on 19 February in this house the Minister denied any knowledge of a hospital budget blow-out. In that same sitting period, the Chief Minister denied any knowledge of it as well. He said that he would be informed in due course, he thought, by his Treasury officials if there were any difficulties with the hospital budget blow-out. Somebody knew about it. On 22 February, the Chief Executive of the Board of Health and the Chief Executive of the Hospital Services Division were reported in the *Canberra Times* as saying that Royal Canberra Hospital North was closing too quickly, and that four months before the end of the year there was a $3m shortfall in the recurrent budget for the hospitals. That was the beginning of the lid coming off the mismanagement of the hospitals budget.

On 26 February, the Minister at last announced that the Treasury would investigate the reported blow-out. So, it took from 19 February until 26 February for the Minister to acknowledge that something was wrong and to get his finger on the pulse in the hospitals area. It seems that Mr Humphries and Treasury officials had frank discussions with Mr Bissett and Mr Withers and the Minister declared that he had confidence in the health administrators, but said that he was unhappy with the way the information had been issued to the media. At that stage, even though there was a massive blow-out emerging in the hospitals area, the Minister still had confidence in those officials.

On 12 March, in this house, the Minister announced that he had asked the chair of the Board of Health to take personal control of all hospital finances, and that the chair, Mr Service, proposed to appoint a financial comptroller to assist him in his task and to be responsible for handling all commitments and expenditure until the board was satisfied that the control could be returned to line management.

So, on 26 February there was a statement, it seemed, that the Minister had confidence in his executives, but by 12 March that confidence had waned and the control had been taken away - - -

Mr Kaine: It had not "berried", Wayne.

MR BERRY: That was "berry" good, was it not? So, there had been a change. On 13 March, the very next day, when asked by Labor in this house whether he had directed the board to relieve the Chief Executive of any of his statutory duties, the Minister answered, "No". So, they had taken away the control from the line managers but, according to the Minister, had not relieved the Chief Executive of any of his statutory duties. He advised the house that he was sure that he had acted within the terms of any legislation that governs the position of the Chief Executive. All of this comes from a Minister who only a short time earlier had said that there was no budget blow-out, but he had to admit a few days later, of course, that there was a blow-out. History now has that on record.

I have to say, Mr Speaker, that his response on the issue of compliance with the Health Services Act has the same hollow ring. It is unconvincing. It is as unconvincing as the Minister's refusal to accept that there were serious difficulties in the management of our hospital system - serious difficulties which have emerged not only in the area of budget and financial management but also in the area of delivery of services to the community. It is a matter of record, Mr Speaker, that this Minister is responsible for an ambulance service which does not provide adequate facilities to the people of the ACT, an ambulance service into which the Minister refuses to hold a public inquiry into to determine what level of services should be provided to the community.

He refuses to come out into the open on that, in much the same way as he was reluctant to come out into the open on the issue of the hospitals budget; but eventually that was uncovered and the lid blew off, in effect. This is the Minister who has been reluctant to keep the community informed about the performance of our hospitals, and this is the Minister who now seems to indicate that there will be a move to cover up the figures which represent the number of people who cannot get beds in our hospital system and to move to another system of counting, if we can call it that, which saves the Government from embarrassment. And all of that, Mr Speaker - - -

Mr Humphries: On a point of order, Mr Speaker: Mr Berry is straying onto his favourite subject that is not to do with the matter before the Assembly today. I would ask you to bring him into line in terms of relevance.

MR SPEAKER: Yes, I uphold that objection, Mr Humphries. I believe that you are straying from relevance at times, Mr Berry.

MR BERRY: Mr Speaker, indeed I have not strayed from the relevant issue because this issue is about the fees and charges made under the Health Services Act and, of course, it is about hospital services - points which I have raised in the course of debate, points which may be of

embarrassment for the Minister. I understand why he is embarrassed, because the hospital service is in crisis. I would be running scared, too, if I were in a position such as this Minister is because of the mismanagement which has occurred in his portfolio. He has been found out on a number of occasions as a result of the campaigns run by the Labor Party, and I can understand why the Minister wants to prevent open debate on the issues. But we are going to keep persisting with it. We will continue to openly debate it and we will continue to take this Minister to task as we are doing with this motion today.

Mr Speaker, this Minister, nervous though he is about his performance - and so he ought to be - has been responsible for a massive decline in services and a massive blow-out of the budget. I say that his management of the laws which relate to our health system is also in doubt, and that is why this motion has been moved today. What we want to know from this Minister is whether or not there will be some change in the future. It seems to me that we have come to the issue of whether Mr Bissett has been relieved of his responsibility or he has not. Mr Service announced that the interim financial controller of the ACT Board of Health would be a Mr Hirth. We are not quite sure what Mr Hirth is going to be paid out of the health budget to do, but we will get to the bottom of that another day. This has added to the confusion and, I suspect, the costs as well.

The pronouncements by the Minister and the chair of the Board of Health are unequivocal. Financial control of the Board of Health is not in the hands of the Chief Executive. Those are the announcements. But what we have to deal with today is the facts. Announcements from this Minister and the facts quite often cannot be rationalised. We have to get to the bottom of this Minister's performance each and every day we come into this Assembly. This is part of that process, and we will continue to keep the pressure on the Minister, no matter how much he squeals.

The Health Services Act is also unequivocal. The Chief Executive, or Acting Chief Executive, exercises the powers of the Board of Health. That includes financial powers. On 28 March this year Mr John Bissett exercised the financial powers of the Board of Health. That is what has occurred.

Mr Humphries: No, it did not; that is not true.

MR BERRY: It was announced in the *Gazette* - if the Minister chooses to read that - - -

Mr Humphries: That is not a power under the Board of Health.

MR BERRY: He cannot ignore the facts. It was announced in the *Gazette* on 28 March 1991, and that is when those powers are implemented by virtue of its announcement in the *Gazette*. So, the exercise of powers is given the weight of law by announcement in the *Gazette*, and tell me if I am wrong.

Mr Humphries: You are wrong.

MR BERRY: Why bother having the *Gazette?*

Mr Humphries: It is not to do with the Board of Health; it is to do with the Health Services Act.

MR BERRY: You will have your chance. The record shows that he was relieved from financial control early in March and that a new financial controller was put in on or about 23 March, but the gazettal of the Board of Health fees on 28 March is signed by Mr Bissett. You cannot deny that, Minister. You can say what you like; it is getting to the stage that everything you say is taken with a grain of salt out in the community because of the mismanagement and diversions which have occurred in the whole public relations process which is associated with the disasters in our hospital system.

What this boils down to is that there is a great level of confusion which could lead to challenges to the fee schedule. If the Minister is to be believed - and I have already made some comments about the likelihood of that - then Determination No. 8, which I referred to, is questionable. That is to say, if the financial powers of Mr Bissett have been taken away from him, according to the Minister, then the determination mentioned in the *Gazette* is invalid and it is open to legal challenge. It is as clear as that.

So, that is why this motion has to be carried. The determination needs to be withdrawn. The powers need to be transferred under the provisions of the Act to an acting chief executive, and the fees and charges gazetted in accordance with the Act.

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

> That the debate be now adjourned.

MR SPEAKER: The question is: That the debate be adjourned. Those of that opinion say Aye, of the contrary No. The Ayes have it.

Mr Berry: The Noes have it, I think.

Members interjected.

MR SPEAKER: The question is: That the resumption of the debate be made an order of the day for the next sitting.

A vote having been called for and the bells having been rung -

MR SPEAKER: Order! Members, from the debate on the floor that I have overheard, I believe that there is some concern as to what we are about to vote on. You have already

adjourned the debate. The question now is: That the resumption of the debate be made an order of the day for the next sitting.

Mr Berry: On a point of order: I said that the Noes had it, when you put that earlier motion.

MR SPEAKER: You were too late.

Mr Berry: The record will show it.

MR SPEAKER: Yes, I am sure it will.

Question put:

That the resumption of the debate be made an order of the day for the next sitting.

The Assembly voted -

AYES, 11	*NOES, 5*
Mr Collaery	Mr Berry
Mr Duby	Mr Connolly
Mr Humphries	Ms Follett
Mr Jensen	Mrs Grassby
Mr Kaine	Mr Wood
Dr Kinloch	
Ms Maher	
Mr Moore	
Mrs Nolan	
Mr Prowse	
Mr Stefaniak	

Question so resolved in the affirmative.

INTOXICATED PERSONS (CARE AND DETENTION) BILL 1991

Debate resumed from 20 March 1991, on motion by **Mr Berry**:

That this Bill be agreed to in principle.

MR COLLAERY (Attorney-General) (10.53): Mr Speaker, no-one on this side of the house denies that the Intoxicated Persons (Care and Detention) Bill has a good social intent. I would like to draw the attention of the house to section 351 of the Crimes Act 1991, New South Wales, in its application in the ACT. I will read this into the record. It says:

Detention of drunken persons

... A person who is found drunk in a public place and who is:

(a) behaving in a disorderly manner;

(b) behaving in a manner likely to cause injury to herself or himself or another person or damage to any property; or

(c) incapacitated due to her or his being drunk, and in need of physical protection;

may be taken into custody by a member of the police force and detained until she or he -

I am very interested to see that we have put the feminine before the masculine in a piece of legislation -

ceases to be drunk or until the expiration of the period of 8 hours after she or he is so taken into custody, whichever first occurs.

(2) A member of the police force may search a person who is taken into custody under subsection (1) and may take possession of any personal belongings found in the possession of the person.

(3) A person is entitled to the return of any personal belongings taken from her or him under subsection (2) when she or he ceases to be detained under this section.

Mr Speaker, Mr Berry's Bill essentially replicates the existing provision in our Crimes Act, in its application in the Territory - - -

Mr Berry: No, it does not.

MR COLLAERY: There are some differences - I accept Mr Berry's interjection - but I am going to try to make a reasonable submission on this without point scoring. Mr Speaker, since the decriminalisation of drunkenness in the ACT, the police can take drunk persons to a place other than a police station. They can and often do release those persons into or to the care of someone else, or they can keep a person in protective custody at a police station for eight hours.

On that latter point, I think we all agree that in many instances a police station is neither appropriate in terms of the situation of that person nor appropriate in terms of the resourcing that goes into detaining that person who may have knowingly and recklessly got himself or herself drunk. It may simply be a social drunkenness, if I can use that term. In that case, I accept - and I am sure the house accepts - the need to look at a sobering up facility. I am happy to inform the house, and to remind the house, that as a government we have already agreed on our response to a report of the Social Policy Committee of this Assembly, and that was to support that committee's - and it was a multi-party committee - recommendation to establish proclaimed places. So, let us put it firmly on the record that our Government, before Mr Berry's Bill was introduced, committed itself to attending to that request of the Social Policy Committee.

I am sure that members opposite appreciate that there is a budget process, and that that report of that committee and our response occurred after the last budget was set. Accordingly, I am sure that the Treasurer will not be offended if I say that there is a new policy proposal in our current processes dealing with a proposition - if not yet agreed to or approved by the ministry as a whole - seeking a grant - I think it is basically within my colleague Mr Humphries' portfolio - to set up a non-government organisation, preferably, for a sobering up facility of the type that we appear, as far as I know, in this house to generally support.

I make the point that, even if Mr Berry's Bill were passed now, we do not have the budget process and the funds and the appropriations law on our side to suddenly divert $200,000 or $300,000 into a project of that nature.

Mr Berry: It is discretionary.

MR COLLAERY: Budgeting is not discretionary. I will leave it to my colleague Mr Kaine to comment on that at some later time, but it really is not. The funds required for this laudatory - - -

Mr Berry: Otherwise you would rule it out under standing order 200.

MR COLLAERY: I will come to that, Mr Berry. Do not invite me to, because on my advice we could easily do that.

Mr Berry: You cannot, because your Law Office told us that you could not.

MR COLLAERY: Through you, Mr Speaker - I will complete the point I was making. I make the point that, in law or not, we do not disagree with Mr Berry's Bill as a statement of good social intent, but the fact is that to give practical implementation to it prior to the budget process is not a possibility in any event.

So, what I say to the Opposition is that we wish to adjourn this debate and one of my colleagues following me will no doubt do that. We are not saying that we are taking it off the agenda at all. I have made that very clear statement in the light of our existing commitment in our response to the Social Policy Committee. During that adjournment period, we need to consider a couple of issues, and they are: The type of amendments that we would want to suggest to the Bill, which would, on my advice from the Law Office, require a rewrite - I am not saying that in any adverse context - - -

Ms Follett: They wrote it.

MR COLLAERY: Yes. I am not saying that in any adverse context. The Leader of the Opposition says that the Law Office wrote it. I am referring to the Law Office; I am

not referring to the Parliamentary Counsel, as they are now known, in this context. They are a separate entity from this enterprise. In strict confidence, they take instructions from backbenchers and other members and they prepare private members' Bills. I knew nothing about Mr Berry's Bill, I can assure the house, until it had been done and was presented here.

Mrs Grassby: It got a clean bill of health from the Bills committee. What are you talking about? Obviously, you do not have any faith in your Law Office or the Bills committee.

MR COLLAERY: Mrs Grassby interjects and says that she does not have faith in the Law Office.

Mrs Grassby: You do not. I am saying that you do not, obviously; nor do you have it in the Scrutiny of Bills and Subordinate Legislation Committee, which gave it a clean bill of health.

MR COLLAERY: The Scrutiny of Bills Committee - through you, Mr Speaker - does not examine government policy. Mr Speaker, I will move on to my topics, and they are, firstly, that the suggested amendment will require a complete rewrite. My advice is that the Bill contravenes the privacy Act in respect of the recommended record keeping practices. That is one issue we need to look at. It also offers the police immunity from civil litigation, and it ascribes powers of custody to authorised persons and also accords them immunity from civil litigation. I think, and I am sure that Mr Connolly will agree when we get into a dialogue after this debate is over and during this adjournment, that this is contrary to current legislative procedure and practice.

Mr Speaker, there are other issues that we need to consider in the context of how we would make a more modernised provision and they are, for example: What will be the sex ratio for which a "place" caters; would it be for males and females; do we need to consider the age aspects of it and whether we are building in discrimination matters subconsciously? We need to deal with what is the minimum age - and I go back to the existing legislation - for a person in the Crimes Act; and, as members are well aware, a person includes any natural living soul.

So, in effect, are we going to allow young people and infants in law to go into this place? Should the Bill be expressed, as Mr Berry has put it, to include "persons" as broadly and as widely as that? Should we not restrict the Act to ensure that we have in place other provisions for children that more reflect the existing divisions of responsibility under the children's services legislation where, as you know, we have repatriated many of the - Ms Follett finds this amusing, Mr Speaker.

Ms Follett: I do not. I said that it is rubbish.

MR COLLAERY: It is appalling to sit here opposite such a juvenile group who purport to understand the machinery of government.

Mr Speaker, the children's services legislation has accepted by repatriation a lot of the criminal-type provisions from the Crimes Act and other provisions in recent years. We are sending those controls down to the children's services legislation because we believe that the laws in respect of young people, including, in my view, drug and alcohol affected young people, should be dealt with in that context. They should not be lumped in with "persons" and dragged off to police stations.

Then there is the other issue: Should we provide this service just for walk in off the street drunks looking to be accommodated? Will medical assistance be available? What powers and obligations under police regulations and the like should we put into legislation or regulations thereto, to deal with rights to medical examination, and medical access and all the rest? Finally - through you, Mr Speaker - Mr Berry, how will inmates be regularly monitored vis-a-vis the recommendations of the Royal Commission into Aboriginal Deaths in Custody?

I suggest to the house that we simply have more work to do on the matter. Mr Berry scored his point. When we endorsed the idea of a proclaimed place nothing appeared in the media. We did it; it is in *Hansard*, but that is our record. When Mr Berry introduced his Bill he got the public credit from organisations, a number of whom have sent me messages saying that they strongly support Mr Berry's legislation. Clearly, there is strong support for this type of legislation, but I point out that the Bill itself is deficient. There are wider policy issues to consider at the moment.

Mr Berry: What are they?

MR COLLAERY: I have just enumerated them while the members of the front bench of the Opposition were giggling and laughing and trying to make fun of this speech.

So, we will adjourn this debate and the debate will be taken up in the context of those challenges I have mentioned. When the debate resumes, the house will be afforded a view from the health and medical, drug and alcohol aspects of what the challenge is here. I expect that when Mr Humphries returns to this Assembly he will adjourn the debate.

I have already alluded to the other issues that Mr Berry's Bill deals with. We need to think again about empowering the police in the manner in which they are empowered. They did inform me that they did not need the breadth of that power which subsists in the Crimes Act and which is replicated in Mr Berry's Bill. Obviously, for political

reasons, we took the point in that matter, but I am sure that Mr Berry did not intend to intrude upon civil liberties when he introduced his Bill, although, and I am putting this on the record, that might be a consequence of this legislation in the hands of a police force out of control. Not that we would ever want that here. But that is the potentiality, and, as we gradually go through the 1900 Crimes Act and remove these provisions which Mr Berry has replicated in a 1991 Bill, we will deal with the civil liberties concerns of those matters.

The final point I want to make before someone adjourns this matter is that Mr Berry's Bill does not encompass a modern concept of record keeping for people who suffer in one respect the stigma of being taken to a sobering up clinic, or whatever we call it. Mr Berry needs to deal with record taking at the place, whatever the place is.

Mr Berry: What about the power to make regulations?

MR COLLAERY: The usual approach when a Bill that has a regulatory function is introduced into the house, Mr Speaker, is that the introducer of the Bill outlines the proposals to deal with the policy and other aspects. In his introduction speech Mr Berry did not put forward how he thought the regulations would deal with the matter.

MR CONNOLLY (11.07): Mr Collaery really made the Opposition's point in relation to this Bill when he said that it is a very good piece of social legislation; it is addressing a major social problem. The Opposition has once again addressed the matter before the Government; but, fear not, worry not, the Government is going to do something about it. The Government, again, is going to get around to this some time. That is really an unsatisfactory response. We are disappointed that we do not have some detailed proposals for amendment. As the Leader of the Opposition and I have repeatedly said in relation to the Opposition's program of private members' legislation, we do not put up legislation in this place in an inflexible manner, in a manner such that we are not prepared to accept and look at reasonable amendments; but we would like to get on with doing that rather than putting this sadly back on the back burner.

When this Bill was first introduced, there was great political rhetoric from the Government that Mr Berry was somehow infringing on civil liberties and providing an arbitrary power of arrest and detention. That shrill cry had to be somewhat modified when it was pointed out that, of course, this is the existing power in the Crimes Act. What Mr Berry was, in fact, proposing to do was to remove a matter that is presently dealt with by the criminal law to have it dealt with, in effect, civilly. But I still hear

an echo of that earlier cry from Mr Collaery in his closing remarks, where he castigated Mr Berry for using provisions from the 1900 Crimes Act, suggesting that Mr Berry was picking up and adopting a turn of the century provision. But, of course, that is wrong too, because section 351 of the Crimes Act, which is the provision for detention of drunken persons, was inserted in that Act in 1983. So, in fact, the provision that Mr Berry is modelling it on is a fairly modern piece of legislation, and to say that it is a 1900 provision is purely rhetoric.

Mr Collaery: It is in the context of the Crimes Act. It deals with drunks in the Crimes Act.

MR CONNOLLY: It is found in a piece of legislation which was first passed in 1900, true; but the provision and the legislative formula are quite modern. Mr Berry's legislation translates those powers to a civil setting and addresses what is agreed by both sides of the chamber to be a pressing problem. All we can hope in opposition, as we clearly do not have the numbers to force the pace on this, is that the Government can be taken at its word that it will address this quickly, and that this is not just going to be another hollow and pious promise. We hope that it is going to get around to addressing this problem. It is a problem that, as we said earlier, the Opposition has been able to address constructively, with its limited resources, and the Government, with its vastly greater resources, can only say that it is going to get around to it some time.

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

That the debate be now adjourned.

The Assembly voted -

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

Question so resolved in the affirmative.

INTOXICATED PERSONS LEGISLATION

MR BERRY, by leave: I present the following papers:

Intoxicated Persons (Care and Detention) Bill 1991 -
Copy of letters from -
Mr B. Collaery, MLA, Attorney-General, to Mr W. Berry, MLA, dated 4 April 1991.
Mr W. Berry, MLA to Mr B. Collaery, MLA, Attorney-General, Minister for Housing and Community Services, dated 20 March and 5 April 1991.

I seek leave to have those letters incorporated in *Hansard.*

Leave granted.

Documents incorporated at appendix 1

INTERPRETATION (AMENDMENT) BILL 1991

Debate resumed from 20 March 1991, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

MR COLLAERY (Attorney-General) (11.17): This is an interesting proposal from Mr Connolly. Mr Speaker, the Bill put forward proposes to introduce penalty units to the Territory. That is another noble ambition, and I guess that a lot of people in this Territory who have been involved with the criminal law and the wider public have had that ambition for many years. It is not a new concept, but it is a concept that is in the minds of most criminal law reformists.

The vehicle that Mr Connolly has chosen is very simplistic - and I do not mean that in a pejorative sense. What he proposes to do is to insert a definition of a penalty unit concept in the Interpretation Act 1967. But it has no substantive presence in ACT law. It follows that Mr Connolly's Bill does not do anything as it stands. We can pass it, and that would be a figment and a symbol of our intent; but it will have no effect unless each penalty provision in Territory legislation - and there is a shelf of it in the room behind you, Mr Speaker - is amended to refer to penalty units.

The Government Law Office was formed following self-government and, of course, it was still being established when I became a Minister practically a year later. The Law Office has done preliminary work on this, but its advice to me is that it is going to take considerable time to

overhaul the penalty system because it has to be done in consultation with each of the portfolio agencies and statutory agencies that exist under legislation that contains penalties.

Given the challenges facing the Territory in the jurisprudential area, this is an important issue; but I would suggest that with the nature of some of the Bills that we are bringing through it is not the first priority of a government. I do want to say - and I hope no-one takes this point - that I say that in the context of experience elsewhere. Queensland introduced a penalty unit system, on my advice, in 1985 and I believe, although I have not confirmed it, that they are seriously considering reviewing it and there have even been calls to repeal it in that State. Victoria introduced legislation in 1981, and they are presently reviewing their scheme.

I am looking, Mr Speaker, at a sentencing task force report written by Richard Fox and Arie Freiberg and presented to the Victorian Attorney in September 1989. It is entitled, "Review of Statutory Maximum Penalties in Victoria". At paragraph 96 of the report to the Government is this statement:

> One of the claimed advantages for introducing the penalty unit was that it would be easy for the legislature to make across the board adjustments to the level of fines to take account of inflation by a simple amendment to the Penalties and Sentences Act.
>
> This has never been done. If the penalty unit were to be now adjusted for inflation since 1981, its value and practically all fine maxima in the state would almost double to approximately $180.

It goes on and says in the same paragraph:

> The amount of $100, when it was originally set, was a relatively arbitrary figure chosen as much for ease of calculation -

this is the penalty unit -

> as its connection with any recognised standard such as a percentage of the average weekly wage, or unemployment benefit, or average household disposable income.

It goes on to state:

> When reviewing legislation for the purpose of attaching penalty units, the Attorney-General -

the Victorian Attorney-General, that is -

> adopted the approach that where offences were punishable by a fine and a prison sentence, the existing maximum prison term was accepted as defining the gravity of the offence and the monetary penalty was brought into line in accordance with a formula that equated one week's imprisonment with one penalty unit, a maximum of one month's imprisonment with five penalty units and so on.

It goes on to say:

> ... this only preserved the pattern set by the maximum sentences of imprisonment which had been allocated, often inconsistently, to those offences over a long time span. Each of these offences should -

in the opinion of these authors -

> be re-examined to establish their relativity ...

It goes on to state:

> There is a degree of uncertainty as to whether a judge or magistrate may impose a fine of less than one penalty unit either by specifying a fraction or percentage of a penalty unit, or a specific dollar amount.

The learned authors go on to state that they have given consideration to how to deal with relativity and how to adjust base values of penalty units for inflation, bearing in mind the very important aspect that much of this penalty will have a relativity to average weekly wages, unemployment benefits and average household disposable income. It is a very complex topic.

In the face of that learned report, my Law Office advice is that we need not only to set penalty units, but also to work out what our community sentiment is about maxima in sentences and what we see as worth, say, for example, a month's imprisonment. In the Northern Territory recently someone was detained overnight, I believe, for not voting. That demonstrates the sort of challenge facing us in bringing in a penalty unit system. So, perhaps we should await further work, given the experiences of those two States.

To summarise, the problems detected interstate are: It is difficult and cumbersome for judges and magistrates to detect the current penalty unit; it has had the effect of lifting small fines to the smallest penalty unit, even though the legislature specifically states that the smallest unit is to be considered a maximum fine for the particular offence; and, of course - and it is an enjoiner to us all and a reminder - the Victorians have not altered the value of their penalty unit since the legislation

was introduced in 1981. I think we all like to be efficient in government; but you have to be conscious of the fact that, with taxi fares and all the other issues related to CPI and base calculations, here we would have another monster challenge for government to keep up to date in an area where people can be sentenced to matters that can cause severe deprivation.

Mr Speaker, our Territory legislation is, quite frankly - and I accept what Mr Connolly said - obsolete. There is vast inconsistency, such as in terms of what the penalty is for picking a wildflower. Under a Bill which was introduced, I think, by the Follett Government, I recall a penalty of something extraordinary.

Mr Stefaniak: It was $10,000, or five years.

MR COLLAERY: It was $10,000, or five years' imprisonment. Given the emphasis the current community puts on preservation of fauna, flora and environment, maybe that is an accurate reflection. But, whatever it is, that is vastly inconsistent with some of the other penalties which exist or subsist in our legislation for other property-type offences. In our view, the only sensible approach is to carry out a systematic and comprehensive review of all penalties, to decide the degree of seriousness of the relevant offence in the whole calendar of offences, and to place them consistently within a rational framework.

This is a very large undertaking, and, other than the research that I have alluded to now and the preliminary work and examination of the project, it is going to be very difficult to tackle it, with the short-term pressures that the Law Office and our budget face. The costs of consultants are high in this town, and I am sure that we are going to hear more about that. I am reluctant to put out a major consultancy that might cost hundreds of thousands of dollars, given the breadth of this study; and there is a question as to whether consultants would have sufficient linkage with the Government to be able to reflect the community sentiment.

Mr Speaker, in principle, therefore, I accept Mr Connolly's proposal; but it will not have any effect, other than to be a reminder to us that this big task faces the Government. I do not intend to say that this was only point scoring by Mr Connolly. I do not believe that it was. I believe that his Bill has attracted the public interest and public sympathy. What it has done is to focus again, really, on the resources of the Government Law Office, and how we will tackle one of the major law reform projects that will probably take place over the next decade.

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

SUBORDINATE LAWS (AMENDMENT) BILL 1991

Debate resumed from 20 March 1991, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

MR COLLAERY (Attorney-General) (11.27): Mr Connolly first introduced the Subordinate Laws (Amendment) Bill 1991 on 13 February. Due to effective cross-chamber workings, and the support of the Government Law Office, we are in a position to say that we support Mr Connolly's Bill at this stage. I am pleased to see in the chamber today Professor Whalan, who gives such noble support, both to the Bills committee process in the other house, and here, to our Assembly. It is with considerable pleasure that I rise to support a reform which surely should be dear to the heart of any adviser to a Bills committee. I do not really want to say too much, Mr Speaker. The Connolly Bill is a landmark in the process of parliamentary accountability in our new chamber. Quite frankly, I wish I had brought it in. But Mr Connolly has got the credit for taking the initiative. Good on him, and good on the Bills committee.

Mr Speaker, there was a proposal from Mr Connolly that the deemed disallowance provision should be incorporated in the ACT planning package. My advice from the Law Office is that that proposal should be rejected. My advice is that it is not the case, as Mr Connolly appears to have suggested, that the Commonwealth planning legislation includes provisions for deemed disallowance. It does not. Section 21 of the Australian Capital Territory (Planning and Land Management) Act 1988 provides that, after the responsible Minister has approved the draft National Capital Plan, the Minister is required to publish a notice of the approval in the Commonwealth *Gazette.* The National Capital Plan takes effect on publication of the notice of approval. Section 22(1) of the Commonwealth Act provides that the National Capital Plan shall be laid before both houses of the Parliament within six sitting days after the plan has taken effect. Section 22(2) of the same Act provides that either house of the parliament may then pass a resolution disallowing the plan, or part of the plan, within six sitting days after the plan has been laid before that house.

Another example is in section 12A of the Seat of Government (Administration) Act 1910. The original provision as to disallowance in respect of the City Plan, inserted in 1930, provided that an instrument could be disallowed by either house within 15 sitting days after the instrument had been laid before it. This was amended in 1959 to reduce the period of time from 15 to six sitting days. In delivering the second reading speech in respect of that amendment, the then Minister for the Interior and Minister for Works, Mr Freeth, said:

> It has become clear that the procedure required under section 12A is too protracted for efficient administration, and that with the accelerated rate of development of the city -

and he was referring to Canberra -

> the procedure needs to be revised to enable changes in the plan, especially minor changes, to be dealt with promptly.

In other words - and I am responding to this specific aspect of Mr Connolly's proposal - section 12A, in our proposition, has been in place in its present form since 1930. The ACT Law Office is not aware of any criticism, in all that time, of the way in which that provision has operated or, indeed, of any suggestion that it has not operated effectively.

No-one can say that we do not have a vigilant joint parliamentary planning committee over in the other house. As far as the Law Office is aware, the Commonwealth legislation has never included a deemed disallowance provision. Nor is the Law Office aware of any provisions in the planning legislation of the States or the Northern Territory which allow for the deemed disallowance of planning instruments. Indeed, in some jurisdictions there is no provision for the laying of plans before parliament at all. Approval may be solely restricted to the Minister, or Governor-in-Council.

I allude now to the legal advice we have received from independent attorneys - lawyer planners - in Sydney recently in relation to the draft Bill, suggesting that we already have an enlightened proposal in terms of accountability.

In jurisdictions where planning instruments are required to be laid before parliament, and may be disallowed, such as the Commonwealth and Victoria, the instruments may already be in effect at the time of their consideration by those parliaments. The scheme proposed for the ACT therefore is preferable in that the plan never comes into effect if the Assembly rejects it. That is an important point. This does recognise the pre-eminence of the Assembly in a way that the planning legislation in other jurisdictions does not. I believe that it reflects the pre-eminence that Mr Connolly and this side of the house also wish to give it.

The amendment of this procedure to include deemed disallowance of planning instruments would add uncertainty and confusion to the process. By the time the proposed planning instruments reached the Assembly, a wide variety of consultative processes would have already taken place, in addition to careful consideration by the Executive. A great deal of public time and money would have been expended. To allow all this to be upset merely because time cannot be found in the Assembly to debate a motion of

disallowance in relation to what might be a perfectly acceptable planning instrument could possibly make, in those circumstances, a mockery of the consultation process. We need to be aware, in that context, of the amount of public money and time involved in the development of new planning proposals together with public interest in the issues, which would make the process attractive to a so-minded member of the Assembly who simply wished to make political capital by forcing the Government to debate every planning issue, no matter how minor.

In my view - in terms of deemed disallowance of planning instruments - Mr Connolly, if he is still in this place, might care to bring this proposal back after we have seen how our planning package works over the next two or three years. At this stage, we believe that that overlay and an overexuberant member of this Assembly wishing, as I said, to make political capital rather than planning sense out of this, could seriously delay matters that lie more principally in the public interest.

Mr Speaker, the Bill presented by Mr Connolly proposes an amendment, in effect, to section 6 of the parent Subordinate Laws Act 1989. To summarise the situation, section 6(1) of that Act presently provides that a subordinate law must be laid before the Assembly within 15 sitting days after the date of notification of the law in the *Gazette*. Section 6(7) of the same provision provides that, if the Legislative Assembly passes a resolution disallowing the law or a provision of the law within 15 sitting days after the subordinate law has been laid before it, the law or the provision will cease to have effect.

To summarise, the amendment proposed in the Bill which we are currently debating is based on section 48(5) of the Commonwealth Acts Interpretation Act 1901. The primary effect of this amendment will be that a subordinate law will be deemed to be disallowed if a motion of disallowance has been called on in relation to a subordinate law that has been tabled in the Assembly, but the motion has not been dealt with by the Assembly.

Of course, if there is no notice of motion or disallowance given within the specified 15 sitting days, the deemed disallowance provisions are not activated. We agree with this process. The amendment will, of course, provide a powerful inducement to the government of the day to ensure that any motion to disallow subordinate legislation is debated and that the issue is resolved in one way or another. Our Government recognises that such an amendment would serve the interests of democracy by ensuring that no government may subvert debate in the Assembly on items of subordinate legislation which may be objectionable.

It is somewhat unlikely that a government would survive if it did not bring on for debate any outstanding notice of motion without the provisions set out in this Bill. Members should note that the Bill will also provide a clear

opportunity for members of the Assembly to abuse the procedures needlessly by giving notices to disallow in respect of large numbers of subordinate instruments, thereby obstructing both government and Assembly business. I would, however, trust that members would take a more responsible approach to Assembly time.

At this juncture, I want to draw attention to the move today by Mr Berry to disallow Determination No. 8 of 1991, purportedly because it deals with matters done by Mr Bissett when he was functus officio or something to that effect. I am not clear as to the arguments. I do not want to jump the gun on those issues, other than to say that there was a clear bell sounding on the front bench of the Opposition just as we introduced this deemed disallowance provision. Frankly, I am worried. We know Mr Berry. We understand the hard manner in which he plays the game in this Assembly and his very astute use of the rules and standing orders. There is a warning to us here that Determination No. 8 of 1991 - from a glance at 11.30 last night with Mr Humphries - covers some matters that should not be disallowed frivolously and capriciously, simply because Mr Berry wishes to take a political point off Mr Humphries, or the then Minister's administration.

I warn the Opposition and, in particular, Mr Berry that we have entered this process put forward by Mr Connolly in good faith. I have discussed with the entire Alliance Government, in our joint party room, what our response will be. I say to Mr Berry, as I believe he has already intimated his intent, that if he brings forward needless point scoring disallowances of determinations to secure other purposes, such as to add political odium to someone in the Assembly, he will subvert the process. If you look at Determination No. 8 of 1991, you will see that it deals with matters profoundly in the public interest; it deals with community and people's rights, and those rights should not be overthrown simply to make a whimsical political statement in this Assembly.

Mr Speaker, there may be members of the public who do not understand what constitutes subordinate legislation. For the benefit of those people, I would like to explain briefly that subordinate legislation is legislation or instruments made by some body or person other than the Assembly. It is usually the Executive or a Minister and it is done under authority given to that person, or body, by statute. A good example is Determination No. 8 of 1991 purportedly made by the Chief Executive of the Board of Health, Mr Bissett, which was spoken to in the Assembly earlier today.

Subordinate legislation, in its widest sense, comprises a wide variety of instruments such as regulations, rules, determinations, directions or orders. I anticipate some crafty debate in this Assembly as to the nature of what some of us may perceive to be subordinate legislation. I say again to this house: All of this is a boomerang. It

will depend on who is on the government benches at the time. It will depend on what conventions and traditions we build up in dealing with this new law which will set a very significant new parliamentary standard in Australia.

Although subordinate legislation is, by and large, restricted to technical or procedural matters, it closely affects every one of us. As Mr Connolly has pointed out, subordinate or delegated legislation has a long history but it has been in only fairly recent times that its full importance has been recognised. As a result, certain forms of subordinate legislation must be subjected to scrutiny and possible disallowance by this Assembly.

Examples of the sorts of subordinate laws which closely affect us and would be subject to disallowance provisions include: Determinations made under the Motor Traffic Act 1936 which set the fees which we must pay to register our motor vehicles; regulations under the Consumer Affairs Act 1988 which prescribe consumer product safety standards; and the manual which sets out the instruments to be used and procedures to be followed, for example, in measuring noise for the purposes of the Noise Control Act 1988.

Mr Speaker, the boom of government activity in a range of areas in the last couple of decades has seen an extended role for subordinate or delegated legislation as it has not been possible for the parliament to consider, in principal legislation, every matter that is now spelt out on the statute books. In the light of this, the Government is prepared to allow the amendment which will provide a greater incentive for Assembly scrutiny of these issues. We are ever mindful, firstly, of the support we receive from the Bills committee process in this house, and we are ever mindful of the enjoiner I put upon us all that we not use this for capricious purposes.

Our Government is committed to ensuring that the Assembly in the ACT is an open and consultative forum which serves the principles of democracy. As a consequence, we are supporting this Bill along the lines that I have outlined. I formally state that the Government's agreement is conditional upon a proviso that members of this Assembly not seek to abuse the disallowance process by using it for alternative purposes and by unreasonably and unnecessarily giving notices of motion to disallow in respect of subordinate laws which themselves are not the subject of the debate. Members were reminded that, in objecting to a notice of determination this morning, Mr Berry did not, in any way, refer to any objections he had to the substance - - -

Ms Follett: On a point of order, Mr Speaker: I refer you to standing order 59. I believe that Mr Collaery is anticipating a matter that is on the notice paper.

MR SPEAKER: I uphold your objection. Mr Collaery, please watch that one.

MR COLLAERY: It is much easier, Mr Speaker, in my experience, to get a break at the bar table than it is here. Fortified by aqua, I will finalise my speech. Mr Connolly suggested that a similar deemed disallowance provision could be put into the ACT planning package. I formally inform the house that we will not accede to that, for the reasons that I have outlined. Nevertheless, we support the Bills and are very pleased to see this new Assembly take a vital appearance in the parliamentary order in this nation.

MS MAHER (11.44): Mr Speaker, I rise today, in my capacity as presiding member of the Standing Committee on Scrutiny of Bills and Subordinate Legislation, to support the Subordinate Laws (Amendment) Bill 1991. Firstly, I would also like to welcome Professor Whalan to the Assembly. I commend him for the work that he does in his advisory capacity to the committee. It was only yesterday that a piece of legislation was presented in the house and he commented on it last night. This enabled us to do a report this morning, which will be presented to the Assembly later.

This Bill, although small in size, is very important for the Legislative Assembly. Mr Connolly, in his presentation speech, quite rightly, pointed this out when he said that this Bill strengthens the hand of the parliament as a whole. I would point out that it also strengthens the hand of the Standing Committee on Scrutiny of Bills and Subordinate Legislation in that usually it will be as a result of the committee's deliberations that a decision will be made by the Assembly as to whether a piece of subordinate legislation should be disallowed.

As members are aware, the committee has been in operation for only a relatively short time. As yet, the committee has not moved a motion for disallowance, although Mr Berry has done so this morning. However, there may come a time when the committee considers that a piece of subordinate legislation infringes one or more of the principles set out in the committee's resolution of appointment. I remind members that these principles relate to whether the legislation unduly trespasses on rights or makes rights, liberties and/or obligations dependent on non-renewable decisions, amongst other things.

Under the current legislation, if the committee finds that a piece of subordinate legislation is contrary to the committee's resolution of appointment and a motion of disallowance is moved, there is no guarantee that that motion would be debated and considered during the 15 days that the Assembly has to disallow the law. Put simply, it could just remain at the bottom of the notice paper and never be called on. Therefore, the current disallowance power of the Assembly relies, to a large extent, on the cooperation of the executive of the day. This is similar to the disallowance powers of some of the other States and

the Northern Territory. Clearly, this disallowance power is not sufficient if the Assembly is to have a proper role in determining whether subordinate legislation is made correctly. A number of commentators have noted this over the years. Mr Connolly quoted Professor Dennis Pearce in 1977 calling for a strengthening of powers of the State and Territory governments in this regard.

More recently**,** during a conference on the preparation of Acts and regulations held in Brisbane in February of this year, our legal adviser, Emeritus Professor Douglas Whalan, pointed out that there must be adequate disallowance powers given to the house. It is no use having a disallowance power if a sufficiently determined government can ensure that the motion is never debated and, therefore, never gets to the top of the order paper.

This Bill has the Government's support. In fact, the Government Law Office helped prepare some of the redrafting for Mr Connolly. The Bill will address these concerns which I have mentioned and bring us into line with both Commonwealth and Western Australian parliamentary practice. It will help ensure that subordinate legislation is prevented from becoming a law of the Territory if it does not come within the principles set out by the Assembly for the committee. Mr Speaker, I commend the Bill to the Assembly.

MR STEFANIAK (11.48): As the third member of that committee I endorse the remarks made by Mr Connolly and my colleague Ms Maher, the chairman of that committee. I also endorse the remarks made by the Attorney-General in indicating the Government's support of the Bill, for which the committee is very grateful. As Ms Maher says, it does bring us into line with other jurisdictions. As the third member of that committee, the Bill has my support.

MR CONNOLLY (11.49), in reply: Mr Speaker, I am heartened at hearing the support indicated for this Bill this morning by the Attorney-General, Ms Maher and Mr Stefaniak. The purpose of this Bill is clearly to strengthen the hand of the Assembly against the Executive. It is not a Bill that is motivated from any past political perspective. Mr Collaery seemed to detect something sinister in the fact that this morning Mr Berry has moved disallowance of a piece of subordinate legislation. Indeed, I think that is the first time that that has happened in this place, which is itself surprising as one may have thought that perhaps Mr Stevenson may have moved on regulations allowing X-rated videos to be sold at certain premises.

That is purely coincidental. I can certainly assure the Government that this will not be a provision that will be used by the Opposition in any frivolous manner. It is an important provision. It strengthens this Assembly's power over the business of government. Mr Collaery referred to the increasing volume of delegated legislation that is likely to appear in this place. That is, of course, a

phenomenon that goes back many years. Lord Hewart's well-known book *The New Despotism* in the 1930s was a tirade against the growth of delegated legislation and the absence of control by elected members. This Bill will firmly place control back with elected members.

In closing this debate and thanking the Government for its support, I would like to possibly flag another move in this direction. It may be one that the Government may care to take on board rather than waiting for it to emerge as an Opposition proposal; and that is to give some force to the procedure that is well established both under the Labor Government and under this administration of, in effect, promises by Ministers to fix up matters in delegated legislation. It is not uncommon for the committee to make a criticism of a piece of delegated legislation and to raise that criticism with the Minister. It is equally not uncommon for a Minister to give an assurance to the committee such as, "Yes, I see that problem and we will do something about it".

In those circumstances the committee would normally not itself move for disallowance and Opposition members or private government members would also probably not move for disallowance because they would, in effect, be relying on the good faith of a ministerial undertaking. It has certainly been the case that, where undertakings are given, they normally are complied with.

There is a move afoot in another place - in the Senate - for some legislative recognition to be given to that process of ministerial undertakings and, in effect, to extend the period for disallowance where a ministerial undertaking has been given so that, should a Minister go back on an undertaking, members who had refrained from moving disallowance because of their reliance on a ministerial undertaking can have a fresh go at moving disallowance.

I would commend that proposal for the consideration of the Government; to go one step further on this important principle of ensuring that laws that are made not in this Assembly, with the full scrutiny of the media and Opposition, but in the private confines of the Executive are properly subjected to scrutiny and that democratic principles prevail. I thank the Government for their support for this significant piece of legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

SCHOOL SITES - TERRITORY PLAN

MR MOORE (11.53): Mr Deputy Speaker, I move:

That:

(1) the advertisement in the *Canberra Times* on Friday, 12 April 1991 calling for comments on the Draft Variation to the Territory Plan for several school sites be rerun with the following corrections, namely that it (a) be written in plain English; (b) be unambiguous; (c) remove any wording which might suggest, by its very complexity, that objections from members of the public might not be well-received; and (d) be written in a tone that is friendly and encourages community submissions.

(2) a further period be made available to allow preparation of submissions.

In the Government's headlong rush to ensure that these school sites are bulldozed, cleared and made ready for development for a range of possible developments, the Government has allowed a very brief period - a three-week period - for the community to provide submissions. It is, of course, the minimum period that has been allowed for any such submissions.

Yesterday I spoke at length on why that period is inappropriate. Even allowing for that period, with an advertisement like the one that appeared in the *Canberra Times* last Friday, it seems to me that, if you accept that a further advertisement is needed, then, quite clearly, a further consultation period, of at least the minimum three weeks, ought to be provided as well. Just a few minutes ago, the Attorney-General, Mr Collaery, in his speech - in fact it was at 11.42 - said that his Government was committed to opening this Assembly as a consultative forum.

If we are interested in a consultative forum, then we have to ensure that everything that we do encourages that openness and consultation. The only friendly thing about the advertisement in the *Canberra Times* was the quite big print "Invitation to Comment". As a person who has provided a series of submissions to the Joint Parliamentary Committee on the ACT and, in fact, many other places, I am relatively familiar with invitations to comment in terms of variations. When reading this particular invitation to comment, there does not appear to be any friendly way, or any easy way to understand what it is on about.

What is easy to understand and what is done quite well is that at the top of the advertisement, in quite dark letters, it is made clear that Lyons, section 41, block 1, is the Lyons Primary School site. There is no attempt to indicate that we are not dealing with the school site. The

school communities were definitely alerted to the fact that these variations were to do with school sites. It is a very positive move, and in that respect I congratulate the Minister and the Territory Planning Authority.

With the rest of the advertisement, however, the story is rather the reverse. I accept that in such variations the department has the responsibility to indicate to people what variations are about. The trouble is that they have been so involved in the technicalities of their own language and their own system that they have failed to communicate with the people who are most affected. In doing so, they have discouraged people from making submissions. I think it is an entirely inappropriate thing to do, particularly in a matter that is of such grave community concern.

The first point that I wish to raise is that it be written in plain English. I will just read a little from the "Invitation to Comment" to illustrate how difficult it is to understand:

> In accordance with s.9 of the Act -

we do not know which Act; anybody who is not familiar with this would not know which Act -

> these Draft Variations to the Plan are to have interim effect commencing on the date that the former NCDC policies referred to in s.66(2) of the ACT (Planning and Land Management) Act of the Commonwealth are to be taken to be part of the Territory Plan and terminating at the expiration of the day before the date the Draft Variation comes into effect; or the date the Draft Variation is rejected by the Legislative Assembly; or the date the Draft Variation is withdrawn by the Authority, whichever case applies.

I think that people are aware that you can use dot points which do assist people to understand, and you can use much simpler language. It may be necessary, as far as the ACT Planning Authority is concerned, to include this sort of language in an invitation to comment to ensure that they have covered everything. If that is the case, then an explanation is needed. In fact, there appears to be an attempt to explain. The next paragraph says:

> This means that, during this period, the Territory, the Executive, a Minister or a Territory authority shall not do any act, or approve the doing of any act that would be inconsistent with the Territory Plan if it were varied in accordance with the Draft Variation; or would be inconsistent with the Plan.

I am sure that it is quite clear to everybody here just exactly what that means, because we are all experts on planning language and planning. I have had a series of phone calls saying, "What the hell does this mean?", and "Are we allowed to comment, or are we not allowed to comment?". I have said, "No, it is an invitation to comment". The response has been, "But what the hell do I comment about?". The reply, of course, is quite simple: "If you think that there ought not be a variation or those schools ought not be bulldozed, then you are entitled to give the reasons as to why they should or should not be bulldozed". That is plain English, but nowhere does it appear.

What about a question and answer system? That would be one possible way of handling it. In the ACT Administration we employ people who are experts on communication. I think that it could well be incumbent upon the Chief Minister, as the Minister responsible for planning, to take this to those people and say to them, "Can you make this easy to read? Can you make it unambiguous?". I say "unambiguous" because the paragraph that I read first about the variations to the plan having an interim effect, and the former NCDC policies, really is, first of all, difficult to understand. It could well be that a person with an untrained eye, somebody who is not used to planning matters but is very interested in the life of their school and the survival of their school, would think that it does not matter what they do, that the draft variation can be rejected by the Legislative Assembly or the draft variation is withdrawn by the authority, whichever case applies.

The implication could easily be read as being that it does not really matter what you do because it is going to go ahead anyway. Whilst there may be some truth in that, I think that we at least have to ensure that people understand that they do have the right to object and the right to lodge the objection and to see that their objection has been considered. In fact, we have seen on a number of occasions that the Territory Planning Authority, when it finally varies the plan, actually sets out the public comments and responds to those public comments in a very positive and, I must say, quite easy way to understand.

That is a very positive approach. People know that their comments have been taken notice of. They may well disagree with the response, but at least they know that they have not simply been ignored. That is something that I think is a most appropriate way of dealing with that. In (c) I have suggested:

> remove any wording which might suggest, by its complexity, that objections from members of the public might not be well received.

I refer back to that same paragraph that I mentioned before:

> When possible land uses and development constraints are determined, allocation of the school building and land to an alternative user or users will be undertaken by the ACT Administration.

It seems to me that the sentence, "When possible land uses and development constraints are determined ... indicates that, independent of any objections, they are going to be determined. The remainder of the sentence, dealing with allocation of the school building and land to an alternative user or users, indicates that there will be an alternative user and that will be undertaken by the ACT Administration.

What is there is technically quite appropriate. But, in terms of the language, it still is saying that it does not matter what is said because that is going to go ahead and will be undertaken by the ACT Administration. That is particularly so when it follows from the final sentence of the previous paragraph:

> Existing school buildings may be used for offices of sporting, cultural, social or other non-profit community based organisations.

That is in specific reference to the draft variation to block 2, section 21, Holder, adjacent to Blackwood Terrace. That is the Holder Primary School.

I will now make the final point that a further period be made available to allow preparation of submissions. If we are really interested in genuine community consultation, if we are really interested in reaching out to the community, not just in this situation, then all such applications for draft variations must be made to the community in a reasonable way. In this particular situation, of course, it is a very emotive issue. It is an issue that has received a tremendous amount of attention from the people of Canberra. It is an issue that is critical to people.

It is not to be underestimated how strongly people feel. It is not to be underestimated how strongly some people still feel about the school in Page. Just a matter of weeks ago I was speaking to somebody who had not been involved in a second school closure but was still incredibly angry about the fact that the heart had been ripped out of the Page community as far as their school closure went and the impact that it had on his family and himself.

As the Chief Minister recognises, these issues have a tremendous amount of emotional impact, apart from the practical and rational side of it. Therefore, it is appropriate that we allow people the chance to respond to these draft variations; that we allow people - if they have

an emotional response - to go and prepare what has to be a rational response, because it is a draft variation. It is no good saying, "I do not like it. I do not feel like it. It makes me angry", even though those things are true.

What is critical is that people go through the process of understanding what the Government is trying to achieve and understand some of the alternatives. It may well be that they disagree with all those alternatives; but at least they understand, in a non-emotional way, what is the rationale behind it, what is the logical thinking, and the issue becomes not an issue of emotion but an issue of logic. Mind you**,** I still believe as an issue of logic that it will be entirely inappropriate for these school sites to be bulldozed. It is far better for the schools to be retained and to be reopened after the next election. Nevertheless, I think the appropriate procedure must be followed. It must be followed in such a way that it appears to be, using computer jargon, user-friendly.

Mr Speaker and members of the Assembly: I urge you to take this motion very seriously. Anyone reading through that advertisement would realise that the language is not the language of ordinary people. It is not the language that is designed to reach out and say to people, "Here is an invitation to comment. We are interested in your opinion". It is a bit of bureaucratese that says just the opposite to people. The message is quite clearly, "Look, we have to go ahead and do this. It does not really matter what you think; but, if you have to put a submission in, we are going to make it an invitation for you to comment". It is not good enough. It is something that needs to be reviewed, corrected and resolved.

MR KAINE (Chief Minister) (12.07): Mr Speaker, the Government rejects Mr Moore's proposition in its entirety. What he has done, of course, is to spend his 15 or 20 minutes appealing to the emotional, and not concentrating on what the whole process of planning is about, and that is that it has to be a logical process. He alluded to it but did nothing more than pay lip service to it.

Let me outline in context how and on what basis the ACT Planning Authority undertakes variations to land use. The advertisement in the *Canberra Times* on Friday, 12 April, was the first advertisement placed by the ACT Planning Authority since it became a permanent planning authority in the middle of last month. The Interim Planning Act 1990 which establishes the authority as a permanent one was passed by this Assembly late last year and came into effect in March. It provides for a quite specific form of the notice calling for public comment on proposed variations to the Territory Plan.

It is not up to the planners to make up their minds what they are going to put in there. Our legislation requires a specific form. Under the legislation the authority is required to publish a notice in a daily paper and they have

to advise that draft variations to the plan have been prepared, where copies of the draft plan and background papers are available, that interested persons are invited to submit written comments to a specified address, what period of time is open for comment and a statement of the interim effect of the proposed variation. The school sites advertisement responds to all of those requirements.

There was, however, an additional requirement arising from the end of the transition period of the Commonwealth legislation. This is the basis of the legalistic wording at the top of the second page of the advertisement. Because of the unusual circumstances relating to the approval of the National Capital Plan by the Commonwealth Government and the powers provided to the Federal Government under section 66 of the ACT (Planning and Land Management) Act we were required to have such a statement.

This was a complex issue and the Law Office advised on the appropriate wording to ensure that the notice complied with the legislation. I admit that that paragraph is not easy to read, but it is legally essential. I note that these words will not be required in advertisements in the future as the requirement was peculiar to the particular timing of the release of these draft variations. It was a one-time thing that had to be written in. Apart from this one paragraph, which relates to a complex legal situation, the balance of the advertisement is in plain English. Mr Moore might not be able to understand it, but that is the fact of it.

Mr Moore says that we have discouraged comment. This simply is not so. We know that the message got through and we know that everybody else understood it because of the interest that has been generated already. The media obviously understood the issue because they have reported on it at some length. The community is aware of the proposals and some groups have already taken action to make their views known. They did not have any difficulty with it. Even the Opposition appear to have comprehended the issue in the process. Mr Moore's address shows clearly that he understands it, although he pretends that he does not. I would suggest, Mr Speaker, that, if he can understand it, anybody can.

The Government has a strong commitment to consultation with the community and because of this we will be arranging for a further advertisement, without some of the legal wording, to be published, and this will comprise - - -

Mr Berry: So, he was right.

MR KAINE: Mr Berry is surprised that we would do that. This will comprise a reminder to the community that we have, in fact, invited consultation on the matter. That advertisement will not need to have the legal preamble to it that the one on 12 April was required to have.

I would like to take this opportunity to comment on a number of related issues. The first is my disappointment with people who have attempted to use scare tactics yet again on issues such as the land use adjacent to the school site in Cook or the potential demolition of trees. Misrepresenting the facts simply does not do them any credit. There is no intention to demolish any trees. There is no intention on the part of this Government to destroy any scenery. That is a gross misrepresentation. Also, there is not any credit for people, including those opposite, who allegedly espouse the cause of democracy and the rights of government to make decisions but who, at the same time, deliberately set out to frustrate the operations of the Government by petty and legalistic actions. I can advise them that in threatening to run to the courts they will do themselves no good because our actions are correct, as well as being fair.

Finally, let me assure members on a number of points. It is our intention to facilitate public comment on these issues. It is our intention to protect neighbourhood ovals and existing trees on school sites. It is not our intention to force any changes on the church and preschool adjacent to the school site in Cook, but merely to be in a position to respond should those uses cease at any time. This is already the same as applies across a wide range of existing land use policies all over Canberra. They allow for all kinds of possible future uses.

Since we are changing this particular one we are making the same provision there as exists in all kinds of lease policies, some of which were put into place by the Opposition when they were in government. There is no intention whatsoever in the advertisement to suggest that objections from members of the public might not be well received. There was nothing in the advertisement that could be read to construe that. In fact, we welcome all comments on the variations. That is why we have asked for them.

The procedures in operation are fair. They provide an adequate opportunity for public consultation, yet they give a reasonably assured timetable that will enable the Government to make its decisions and get on with governing in the interests of the people of Canberra. Furthermore, it is totally legal. As I said before, plenty of people seem to have understood it precisely and they have had no difficulty with it whatsoever. I just make the reminder that any interested party has until 4 May to let us have their comments on these proposals.

MR WOOD (12.14): On hearing those arguments from the two previous speakers, I am inclined to come down on the side of Mr Moore about the intelligibility of the document we face. Mr Kaine spent some time talking about the logical processes that are required to be gone through in this matter. I do not argue with those. Notices in daily

papers, announcing where it is available and so on, are certainly logical, but that is not what this debate is about.

Mr Kaine then went on to say that one paragraph is particularly difficult because of the requirements of certain legislation. That was the paragraph quoted by Mr Moore. Nevertheless, the whole sense of that text under the heading "Invitation to comment" does not give a clear impression of what this is about. For example, people have come to me asking me such questions as, "How much of the land around those schools is to be sold off?". It does not indicate that there. To show a map, for example, would be the logical, simple way to do it. There should have been a map of the sites, as the variation documents have.

Ms Maher: But people can ring up and ask for those.

MR WOOD: Yes, but then I thought the intention was that this should be as clear as possible. That is what Mr Moore and I are both now saying; that it should have been made as clear as possible. I have had people ring in and they have said, "Are they going to sell off all the green space around the schools?".

Mr Collaery: What did you say?

MR WOOD: I said, "No".

Mr Collaery: Thank you.

MR WOOD: I said "no" to that months ago when people were concerned about it. The school ground is not the entire green space that may surround the school. I have made that clear to many people over a long period. I would have thought that it would have been sensible, since this is such a significant issue, to put in that map. I am relying on my memory here, but I think I could go back and find other advertisements in the *Canberra Times* where I have seen maps displayed on much less contentious issues. I am sure your memory will tell you that too. I suggest that it has been done in the past. On this very important issue, it should have been done again.

The matter is one of expanding concern. To date, the arguments in the suburbs, where the schools have been closed, have centred very much on the efforts of the people who have children at those schools, plus others who have an interest. As I suggested the other day, it is now growing to encompass a great number of people who simply live in the suburb and do not want the amenity of the suburb diminished by the action of closing a school. There again, there are also numbers of people who live adjacent to those school grounds, and their homes and their yards may back on to the school grounds. They have an even greater concern.

The Government seems to forget that land values are very often determined by the closeness to open space, even if just across from the open space is a school. The Government is effectively devaluing a lot of properties in these suburbs. These other people are now joining in, and they have not had the background of information that those who have been part of the campaign thus far have acquired.

It would have been simple to put in some diagrams or a map to show what was there. It is still open to the Government to do so. Mr Kaine says that there are going to be further advertisements, but he said "only as a reminder". I hope they take the opportunity to make it more than a reminder, so that people can clearly see what the impact is going to be. For the benefit of the Government, it may be that many people will say, "Oh, that is the area. That is okay. You are leaving all this other green space. I can accept that". It may well have been to the Government's advantage to have done that.

I heard this matter debated on ABC radio the other morning. It seemed to me that the officer from the planning agency was saying, in effect - and I am putting my interpretation on it, let me be clear - that the objections will really be valid only if it comes down to discussing the relationship between green space and population, and that a great number of other objections will not really have any effect. I hope that is not the case. We do not need to determine the amount of green space we have simply on the basis of population and population generating so much green space.

I said yesterday that Canberrans value their city. I am sure you know that, although you act otherwise. They do not want to see intrusion into the ample green space that we have. I acknowledge that it is ample. They do not want to see, and neither do I, any intrusion into the green space.

I will make a comment about these variations; the green forms that come out. I would place them in the middle range of understandability. They are not very bad, nor are they very good. I think great effort has been made, over some period of time, to make them understandable. However, for the average citizen who is reading these for the first time - if they follow this path of objection - it takes a bit of working through. I am sure that we would all agree that we have to make things as understandable as possible. We cannot go claiming public consultation if we put any sort of impediment on that path.

Yesterday I copped a serve from Mr Jensen, and fair enough, because I had not read this document in full. In fact, I had not read the back of the last page. I received this about lunchtime, when coming down in the lift, and I missed a comment about the trees at Hackett being retained. Nevertheless, I am not very impressed with what security may have been given to those trees. The document says that they will be retained. It is a magnificent and fairly extensive stand of timber.

Mr Collaery: Where?

MR WOOD: At Hackett. It is okay to say that it is going to be retained, but in what shape? Is it going to be retained as a separate stand, so to speak, or are we going to have houses or medium density residences dotted in amongst it? My strong preference would be that the trees should be retained in a form. If you do go down this path of developing that area - and I certainly hope that that does not happen - that stand of timber should be left separate and should not have buildings arranged around it. I do not think that that would do justice at all to that beautiful area. Again, I would hope that it is a matter that the planners will take into account. Is there anything in the Act that says that they need to take that into account? It may be that that is not the case.

I should hope that my comments, which I will make, and the comments from the people of Hackett, as well as from people in other suburbs, will be attended to by the planning agency. We do not like the Government going down this path. It is not the path that we would take. We will do everything we can, in association with the community, to object to these variations. We will do everything we can to see that the school sites remain intact, with schools on them, until the election next year when the people of Canberra can decide whether they want schools there or not.

The debate during the last election campaign did centre on school closures, but nowhere in my memory did any party say that there were going to be further school closures. The public never voted on it. There is no mandate for anyone.

Mr Collaery: I have an answer for you. Give me the time.

MR WOOD: I will be waiting for you. The public had no expectation that there would be further schools closed. The ALP commitment was absolutely clear that there - - -

Mr Collaery: Oh, Bill!

MR WOOD: I know that you like to distort it, and you do it every time you get to your feet; but the ALP commitment was crystal clear. I will show you the newspaper headlines, if you like, which said that the ALP will not close any schools in this session of parliament.

MR COLLAERY (Attorney-General) (12.24): I want to respond to two points that Mr Wood mentioned. The Australian Labor Party had a policy on school closures at the last election. I have read it into the record in the past and people should see that it is - - -

Mr Wood: And I have corrected you time after time, have not I? Have I not corrected you time after time?

MR SPEAKER: Order, Mr Wood!

MR COLLAERY: Mr Wood is talking about a mandate at an election. The fact was that the Australian Labor Party issued a policy that talked about anticipated school closures. He has used sophistry to dodge the issue. If, in the light of the fact that they were thrown out of office and they issued something saying that they did not do it, and the Residents Rally, in like manner - - -

Mr Wood: It gets a bit tedious after all this time that you want to continue on in that vein.

MR COLLAERY: Mr Speaker, I have only a few moments.

MR SPEAKER: Order, Mr Wood, please! You were heard in silence.

MR COLLAERY: If the Residents Rally, in like manner, issued exactly the same policy as Labor, do you say that the public were not aware of the fact that our demography and the nature of our community was such that we had this ever present fear of school closures? Of course; because it was just around the corner. When we sat down with Michael Moore and others to talk about our Rally policy, we discussed school closures. It was mentioned on the hustings. None of us have kept tape recordings, I imagine; but, if they exist, you would find that the subject of school closures was often mentioned. All of us in the Rally very guardedly said - the same as the Labor Party has said - that there would be full consultation and no school would be closed unless the school community agreed and so forth. Is that not right?

Mr Wood: That is not the case.

MR COLLAERY: Yes, we did. Mr Wood, it ill-behoves you, given your essential integrity, to try to dodge that issue. The reason why you are opposed to school closures at the moment is that you are in Opposition. That is the fact of the matter.

The second issue is that, when the Follett-Whalan Government was in power, I recall a senior adviser to Rosemary Follett, Martin Attridge, coming down to the Rally office with these draft proposals. I hold them up for the house. They are headed: Page, Fisher, Phillip. They are in much the same form as the green proposals before us today in relation to Curtin, Hackett, Holder, Lyons and Cook.

Mr Attridge came down to us and talked to us and assured us that not too much green space would go. I invite members to have a look at Rosemary Follett's green proposals, because they are not much different from ours. That is one of the most conclusive rebuttals of Mr Wood's arguments that he has advanced today that one could ever imagine. Mr Wood smiles. Of course, he smiles wryly. I accept that he

probably did not even know. He probably did not even realise that there was a boomerang whizzing around this Assembly as he was standing up to speak.

I know that I am crowding out my colleagues, but just for once my exuberance exceeds me. My final point is that the Government has decided to ask the Chief Minister to put forward possible alternative uses for these sites, in the light of public comment. I give you my undertaking that that is the Government's decision. The Government has not made a decision that pre-empts any of these options in these documents. One of the options is that the sites be retained for community facilities. If you look at the definition of "community facilities", that includes schools. So, one of the options is, in effect, the status quo.

I think that a great injustice has been done to our Government, and particularly to the Residents Rally, in this debate, because it is a most unfair proposition - a scaremongering proposition - to suggest that finite decisions have been taken in advance of public consultation. It ill-behoves the Labor Party, which closed all those places and left us vandalised establishments, to produce the similar type of green draft proposal for public comment as we have and now to wax eloquent about clear English and all the rest. Mr Wood fell down on the side of Mr Moore. I think both Mr Wood and Mr Moore fell over on this issue. Clearly they have.

MR HUMPHRIES (Minister for Health, Education and the Arts) (12.28): Mr Speaker, I will not speak for very long. Mr Moore's sentiments about the necessity for the Assembly to be a consultative forum are sentiments with which I would generally tend to agree. There are obviously important fora for views to be expressed and for views to be debated; the Assembly should be one of those fora. I think, in general, we should be looking at extending and strengthening the consultative processes. I have always considered, mind you, those public documents issued by the ITPA and the NCDC, and now our ACTPA, to be in that vein, but they need to be strengthened as the ACT has evolved into self-government. As I said, in general, I agree, but I have to say that in this particular case I have my suspicions quite justifiably aroused by comments made by Mr Moore earlier yesterday on the question of - - -

MR SPEAKER: Order, Mr Humphries! In accordance with standing order 77, this debate is interrupted. You may resume the debate next time private members' business is called on.

MR WOOD: I rise under standing order 46.

MR SPEAKER: Do you claim to have been misrepresented?

MR WOOD: Yes, indeed. Mr Collaery, as is his habit, stood and said that we supported school closures. We have demonstrated in this Assembly time and time again that we had a very explicit policy commitment that no school would close during the life of the first parliament. That was our very clear commitment, and it will, of course, be reviewed ahead of our next election campaign.

Sitting suspended from 12.30 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Quarterly Financial Statement

MS FOLLETT: Mr Speaker, my question is to Mr Kaine as Treasurer. Mr Kaine, on 19 March you were unable to answer a question from Mr Berry about why you have not published the quarterly financial statement for December. I ask you again. It is now 3 months after the end of the reporting period and it is a month after Mr Berry initially asked that question. Can you tell us now why you have still failed to publish the December quarterly financial statement which is required by section 70 of the Audit Act?

MR KAINE: I have had an explanation as to why that has not been done yet, Mr Speaker. It is imminent. I have not the information with me. I will take the question on notice and give a full response tomorrow.

Pornography and Organised Crime

MRS NOLAN: Mr Speaker, my question is to the Attorney-General and it is in relation to the statement that was made in the house yesterday by Mr Stevenson. Attorney-General, what action has been initiated in response to Dennis Stevenson's statement to the Assembly alleging organised crime links with Canberra's X-rated pornographic video industry?

MR COLLAERY: I thank Mrs Nolan for the question. Mr Speaker, as the house is aware, the matters were handed to the police late last night. I have been advised today that the Chief Police Officer anticipates providing me with interim advice by Friday, the 19th - the day after tomorrow. A more detailed report will be provided once the allegations have been fully investigated. Because of the connections made by Mr Stevenson in his lengthy speech involving alleged organised crime figures, both Australian and international inquiries are being undertaken. They will entail a thorough examination of Australian Federal Police intelligence holdings and those of the Australian Bureau of Criminal Intelligence. As I said, inquiries overseas may also be necessary. They may take some time, but I anticipate providing an interim response by Friday.

Government Vehicles

MR STEVENSON: Mr Speaker, my question is to the Chief Minister and it is in line with my question yesterday about the use of public vehicles for personal use - something that has been brought to my attention many, many times by constituents over the last couple of years. What action will the Chief Minister take now that the matter has basically come out into the open in the report mentioned in the *Canberra Times* this morning?

MR KAINE: Mr Speaker, I think that Mr Stevenson is well aware that the use of, and the resources made available for, publicly owned vehicles of the ACT Government is something that I have been looking at for many months. The information that I have been getting generally supports the information that has now been brought out by the Auditor-General. As with any Auditor-General's report, the Government will consider the matters now raised and will take whatever corrective action is required in the managerial sense to get the matter under control.

I am quite sure that the Public Accounts Committee will have a look at this and I am quite sure that they will have something to say on it as well. It will be the Government's intention, and has been my intention for many months, to make sure that the amount of public money being put into motor vehicles for the ACT Government Service is confined to what is absolutely necessary and that those vehicles are used only for the purposes for which they are provided. We now have the basis for some fairly positive action to make sure that we achieve those objectives.

MR STEVENSON: I have a supplementary question. Does the Chief Minister consider that there might be some worth in looking at the greater use of a pool of vehicles in certain circumstances to perhaps prevent a vehicle being used by one person only being left for long periods of time?

MR KAINE: I think that there are pool arrangements already in place in the ACT Government Service, Mr Speaker, as indeed there are in this Assembly. Clearly that is one possible course of action that the Government could adopt. I think that in some cases that is not appropriate for operations like those conducted by the Community Nursing Service, where nurses have to be out and about on an individual basis. There is a quite large number of them and it would be most inappropriate to require them to operate on a pool system. In fact, it probably would not be effective. No doubt there are other places where such a system could be put in place. Obviously we will look at that as an option.

Auditor-General's Report

MR BERRY: My question is directed to the Chief Minister. Does the Chief Minister agree with the statement by the secretary of his department to the Public Accounts Committee that the ACT Auditor-General's first report contains "broad generalisations which are untypical of such reports in other jurisdictions", and that it is not "necessary or desirable to respond to some of these generalisations"?

MR KAINE: Quite clearly, Mr Speaker, there will be some opinions expressed by the head of the ACT Government Service as a public official that will not necessarily coincide with mine or those of the Government. He has a particular position and he is entitled to take that position. That is a fairly general statement. I think that my personal view is that we have a new body politic here; we have a new legislative body. Some of us have been trying to make it work in a different way from that in which other legislative bodies work. I think that leads to the conclusion that the way the administration is put into effect and managed perhaps can be different, and that also leads to the conclusion that the office of Auditor-General can perhaps be performed in a different way from the way it is performed elsewhere.

I do not know that there are any hard and fast conventions about what an Auditor-General should and should not say in his report or how he is supposed to couch the words. If he has a strong view or even if he is expressing views of a broad and general nature, I think that he has the freedom to express them in any way he wishes. That may not be acceptable to some of our senior public servants, but it is a difference of view which might in fact be healthy in that they see things from a different viewpoint and get into some debate about the kinds of things that ought to be in the reports, how they should be dealt with, and what the public service response ought to be. So I do not have a strong view about this.

I would certainly not attempt to direct the Auditor-General in what he should say and how he should say it. He is a statutory officer. On the other hand, the head of the ACT Government Service is entitled to express his view, both in a Public Accounts Committee situation and elsewhere. I am not going to tell him what he should say either.

MR BERRY: I have a supplementary question. What specific actions have you directed in response to the Auditor's report, given that your public servants are proposing not to respond?

MR KAINE: Well, there are two things. First of all, the Public Accounts Committee is pursuing its own particular course of action in connection with that report. As I have said, the Government will respond to that when the Public Accounts Committee comes forward with its report for

consideration by this Assembly. We will then have not only the Auditor-General's view but also the view of the Public Accounts Committee. We will take those views and consider them, and we will give you our considered response when that time comes.

In the meantime, however, I think I have made it quite clear that I expect the public service to act in a responsible manner. I believe that we have a professional public service and that has to be reflected in the way they go about their business. I think that there are points of criticism and concern in the Auditor-General's report that they are already addressing. I am quite positive of that. While they might have a particular view about some aspects of it, they are professional public servants and they will do, I am sure, whatever needs to be done to get our house in order from the accounting and managerial viewpoint. I have certainly indicated that I require them to do that.

ACTION Tickets

MS MAHER: My question is to the Minister for Finance and Urban Services. Would the Minister please inform the Assembly as to why ACTION has introduced new bus tickets?

MR DUBY: I thank Ms Maher for the question. It has been estimated that up to $1m per annum may be lost to ACTION and, of course, to the ACT Government as a result of fraud, and a large proportion of that fraud is undoubtedly due to fraud of the bus ticketing system which was in place, namely, the ACTION Fare-Go system, et cetera, and the general problem of fare evasion. Whilst ACTION is currently evaluating a more effective and permanent ticketing system, it has introduced in the process a new range of tickets covering various classes of passengers as of 1 April.

The new periodical and Fare-Go tickets are brighter and bolder in colour, to assist bus drivers and supervisors to ensure that passengers are travelling with valid tickets. Both the colour and the design of the new tickets prevent unlawful replication. I show here for members interested a sample of the various colours and types of tickets which are being issued. You can see that they are very colourful. They are also very difficult to duplicate in photocopying machines and colour machines, et cetera. They have been specifically designed that way to prevent unlawful replication.

These new Fare-Go tickets have a receipt for travel which is a different colour from the ticket which, of course, is supposedly placed in the Fare-Go box. They are very colourful. People are now calling them fare glow tickets, which I think is a nice go. That receipt provides evidence of travel which was previously not available. This means that people on buses can still be asked to prove that they

paid to enter the bus and have not evaded payment. All in all, for those various reasons, this system was introduced as an interim measure to increase revenue to the Government and to minimise fare evasion which, we believe, has been a serious problem.

Government Vehicles

MR WOOD: Mr Speaker, I direct a question to the Chief Minister. I seek some expansion on the question that Mr Berry asked or will take it in a slightly different direction. In view of the adverse audit report tabled yesterday, has the Chief Minister issued a direction now to the public service about enforcement of the rules for private use of government vehicles, and, if so, what have you directed?

MR KAINE: Mr Speaker, the report was tabled yesterday. I have not even finished reading it yet. At this point I have given no direction, but I have discussed it informally with the head of the ACT Government Service and he knows that I expect the management of motor vehicles to be tightened up. The instructions are out there already. All that is required is for managers to implement those instructions. I think that from the report itself it will be obvious that there are very precise instructions that have been issued about the management, use and control of publicly owned vehicles.

When I have fully read that report, as I expect to do within the next day or two, if I think there is any need for me to make any specific direction to the head of the ACT Government Service I will do so. At the moment I have not fully read or digested the report and I am not inclined to jump off the top of a tall building until I know that there is something at the bottom that will support me when I get there.

MR WOOD: I ask a supplementary question. Will the Chief Minister be directing that charges incurred outside the official guidelines should be recovered from the officers concerned?

MR KAINE: Mr Speaker, I do not believe that I need to make such a direction. It is implicit in the instructions that vehicles are not to be used for private purposes outside the ACT at public expense. It follows from that that if anybody has permission to use a vehicle outside the ACT it is at their expense. I do not think I need to issue a direction that does no more than reaffirm that.

Government Borrowings

MR STEFANIAK: My question is to the Chief Minister. What will be the effect of the withdrawal of the Commonwealth Government's guarantee for borrowings made by the ACT after 1 July this year?

MR KAINE: The Commonwealth Government guarantee applies only until the end of this financial year, after which they consider that we can fly without their assistance. Borrowings before that date will still be under the Commonwealth umbrella, but after that date it will mean that we will be examined by the financial market in our own right as a borrower. The market will look at us on the basis that we no longer have the protection of the Commonwealth behind us. We are not just sitting waiting for that to happen, however. We have sought a credit rating within the Australian rating system so that lenders can have a measure of our ability to service our borrowings. That is what all the States do, just as major corporations do. We will have our own rating so that people can make their own judgment about whether or not to lend us money.

In developing a rating, the agency no doubt will be looking at our ability to cope with our budgetary situation. They will be making an analysis of that. They will be looking at what we did with this year's budget, and no doubt they will be looking very closely at what we are going to do with next year's to cover the financial gap that we are inheriting from the Commonwealth next year. I think the bottom line is that our judgment is that the removal of the Commonwealth Government guarantee is likely to see the rates at which we can borrow increase by about half to one per cent a year. We are going to be incurring a much larger interest bill in future because the Commonwealth has withdrawn its backing to our borrowing.

Institute of Technical and Further Education

MRS GRASSBY: My question is also to the Chief Minister, Mr Kaine. Are there any plans within the Government to corporatise TAFE?

MR KAINE: No. I thought the Government's position in connection with TAFE had been pretty well established. We have put them on a three-year funding arrangement and we are only two-thirds of the way through the first of those three years yet. Our intention for the next three years is pretty obvious and pretty clear. As part of the three-year funding arrangement that we have with them, they are required, increasingly, to seek support from industry and elsewhere by selling their services and the like, because the percentage of money that we will be putting into their coffers as a percentage of the whole reduces slightly from year to year; but there is no implication in that of corporatisation, as far as I am aware.

Committal Proceedings Delays

DR KINLOCH: My question is to the Attorney-General, Mr Collaery. Could you tell the Assembly the length of time a person may be detained in custody in Belconnen Remand Centre before the matters he or she is charged with are heard? Could you further tell the Assembly about an allegation from one detainee that he was held for several months without his charges being heard?

MR COLLAERY: I thank Dr Kinloch for the question. The answer is that that is a variable of the judicial process and is not a matter that the Executive, this Government, directly controls. Delays do occur. That often happens because either the prosecution or the defence is not ready to proceed. There are regular call-overs of unlisted matters in the court and I have taken an interest in those issues in recent times.

I am aware of a specific case which was the subject of a complaint to the Official Visitor, Bill Allcroft. The person concerned was charged with three separate serious offences between 17 April and 11 May 1990. I am advised that on 25 May - that must be 1990 - his solicitor asked the Magistrates Court for all the matters to be dealt with together, and asked for a hearing date in October 1990. I do not know the reason for this request. However, it appears that separate committals were held as he was committed to the Supreme Court on each charge between 6 and 21 November 1990.

Had it not been for the request that the committal proceedings be delayed, the matters would have been dealt with much more quickly by the Magistrates Court as it is the usual practice of that court to dispose of committals of persons in custody within three months, and in many cases within much shorter periods. The person was allocated, on 3 December 1990, a hearing date of 28 February 1991 for one of the offences. Given that the Supreme Court vacation covered the period from 17 December to 25 February, you will see, Mr Speaker, that this first matter was brought on in that context. The defence applied for the hearing date of 25 February to be vacated as the defence counsel was not ready to proceed. The prosecution was ready to proceed on that date, on my advice. The trial was relisted for 26 March 1991 but did not proceed on that date as a prosecution witness was unavailable. The matter has been relisted for May 1991.

I am sure all members would agree that this is a long time to be at the Belconnen Remand Centre. I think also that the above account puts the complaint in a very different light and is a matter, I believe, for discussion with defence counsel.

Nevertheless, delays do arise for a variety of reasons, only some of which are within the control of the courts. Courts are prepared to deal with matters expeditiously when all those other factors of prosecution and defence are prepared. Very often the judges and magistrates are really variables of the preparation of the matters for trial or defence, or both, as the case may be.

Mr Speaker, it is also relevant to say, as some practising lawyers would be aware, that in this court judges do take into consideration time spent on remand. Time on remand in Belconnen can, in the present circumstances, be considerably better than time spent in another regime outside this Territory.

Planning Legislation

MR CONNOLLY: My question is to the Chief Minister in his planning capacity. Chief Minister, following criticism of the Government's so-called consolidated planning Bill by the ACT Law Society, the Canberra Association for Regional Development and the Building Owners and Managers Association, I understand that you have at last found a law firm prepared to say that this Bill is acceptable. I ask: How much did the Government pay Dunhill, Madden and Butler for their report? Why was this firm chosen, what was the selection procedure, and what were the terms of reference for the review?

MR KAINE: Mr Speaker, first of all, I would like to rebut the implication in Mr Connolly's question that after getting some criticism of our Bill we went and got an opinion. That simply is not the case. Concurrently with putting that Bill out for public consultation and referring it to the interested parties, we sought a legal opinion as to whether it was technically a good Bill. It had nothing to do with its content. So let us be clear. The sequence of events that you are implying simply is not the case. Frankly, I quite resent the implication that you think that I am somehow underhanded in that fashion. I would hope that you would withdraw any such implication. I do resent this kind of constant implication that somehow we over here are a bunch of crooks, and I want to set the record straight.

Mr Berry: Do not get so touchy about it. You protesteth too much.

MR KAINE: You can calm down, Mr Berry; you are not part of this discussion. Having put the lie to that implication in Mr Connolly's question, I will have to take on notice the question as to the process by which the contract for that work was let and what the price was. I do not know offhand. I will take that part of the question on notice.

Pearce Primary School Buildings

MR JENSEN: My question is directed to Mr Duby, in his capacity as Minister for Finance and Urban Services, and it concerns the current situation on the allocation of space to the community groups in the old Pearce Primary School. Mr Duby will recall that that school was closed by a Federal Labor Government. I wonder whether the Minister is in a position to give the Assembly an indication as to what, if any, decisions have been taken on the use of that school building.

MR DUBY: I thank Mr Jensen for the question. As members will recall, in July of last year the Government announced that the buildings formerly occupied by the Pearce, Rivett and Higgins primary schools would be made available for unsubsidised community use. My department was nominated to manage the process of tenanting the properties and seven ads were placed in the *Canberra Times* from August 1990 to mid-September seeking expressions of interest from organisations interested in being considered for accommodation in the school buildings. Some 48 applications were received. Subsequent to those expressions of interest being sought, the Hudson inquiry into proposed school closures recommended that the Rivett and Higgins schools be retained in use as public schools. So, subsequent to that, 10 organisations withdrew their expressions of interest because the location of the Pearce school did not suit their needs.

In January this year I announced the formation of a Community Space Committee to consider the applications and to recommend to the Government which applicants should be offered accommodation in Pearce Primary School. That committee comprised three community representatives and four government representatives. They were Peter Tinson, from the Estate Management Unit in my department; Joanne Marsh, executive director of the Belconnen Community Centre; Ian Maclean, formerly of the ACT Council of Cultural Societies; Pat Dart from the ACT Netball Association; Lance Fellows from the Corporate Services Division of the Ministry for Health, Education and the Arts; Margo Rushton from the Housing and Community Services Bureau of the Department of Justice and Community Services; and Lisa Paul from the Social Policy Branch of the Chief Minister's Department.

That committee assessed applications for space at Pearce and has submitted its report. It recommended a number of organisations which will be allocated space at Pearce school, and it also recommended that the initial rent at Pearce school be $60 per square metre per annum for non-profit community groups and $112 per square metre for other users. **I**t also recommended that tenants be required to form a board of management to manage the property.

I am pleased to announce that the successful applicants are: The Winnunga Nimmityjah Aboriginal Health Clinic; SHOUT, or the Self Help Organisations United Together; Galilee; the Australian Early Childhood Association; Sharing Places; Fusion; the Richmond Fellowship; the Australian Intellectual Disabilities Research Foundation; the Board of Health Psychiatric Rehabilitation Unit; Woden Family Day Care; and the Theatre and Dance Consortium.

The committee has recommended that the hall and three meeting rooms of varying sizes be reserved for casual hire. The recommendations of the Community Space Committee have taken into account all of the expressions of interest, and space was allocated in the order of priority determined by that committee. The successful applicants represent, I believe, a wide variety of community support organisations, and the Government is pleased that the space it has made available in this former school property is to be put to such worthwhile community use.

Mr Jensen, some renovations are going to be required to ensure that the building is clean and in good health, and I am happy to say that those renovations are currently being undertaken. It is expected that the recommended applicants will be able to occupy their accommodation some time in May. As I said, the tenants will form a board of management which will manage the property under a head lease from the ACT Government.

All in all, I think we have come to a good end to this story. Undoubtedly there was a demonstrated need for space by various community organisations and that need has been met by the Government. I am sure that the vibes in the community generally will be good ones. They will be satisfied that the Government is addressing the needs of the community organisations and, of course, putting to worthwhile use what was, frankly, a vacant, vandalised space which had been there for some time.

Vacant School Sites

MS FOLLETT: Mr Speaker, my question is to Mr Kaine as the Minister responsible for planning. Yesterday in the Assembly you said that you had directed the start of the planning process for the disposal of vacant school sites. How do you then explain the statement by an assistant secretary of the Territory Planning Authority on the Julie Derrett program on ABC radio on Monday that "motivation has come from the Authority"? He also said: "I have had no pressure to do it".

MR KAINE: A Minister giving a direction and a Minister applying pressure are two quite different things. Public servants respond to directions from their Ministers, but that does not imply that we are putting any pressure on them. It simply means that they are doing what they are

paid to do, and that is, work for the Minister who has the portfolio within which they work. I do not see that there is any contradiction and I do not quite see what point you are trying to make.

MS FOLLETT: I have a supplementary question, Mr Speaker. Would the Chief Minister table the direction that he gave?

MR KAINE: Mr Speaker, the presumption is that I give all my directions in writing. What rubbish! I talk to my public servants. Didn't you ever talk to yours when you were Chief Minister?

Ms Follett: They said that motivation came from the Authority. They did not mention you.

MR KAINE: If you are trying to assert that this legislation has come from within the Territory Planning Authority, that is crazy. That is not where the motivation came from. That is not where the direction came from. These public servants are working to their Ministers. It is as simple as that. They did it when you were the Chief Minister and they do it for me.

Educational Assessment Standards

MRS NOLAN: My question is to Mr Humphries in his capacity as Minister for Education. Has the Alliance Government given any consideration to the merits or otherwise of the ACT educational system adhering to a set of future national assessment standards for year 12 students, as has been suggested by the Commonwealth Minister for Employment, Education and Training, Mr Dawkins?

MR HUMPHRIES: Mr Speaker, I thank Mrs Nolan for that question. The Alliance Government is considering its position on whether there would be any value in the ACT adopting any forthcoming national assessment standards that might be set. I expect, personally, that we would support such a proposal provided that the assessment system was optional to those provided by the ACT - in other words, it was available to ACT schools to choose whether to take part in that national assessment program - and also provided that the Commonwealth Government met the costs involved in such a program.

The ACT currently has a system of continuous assessment of year 11 and year 12 students by individual schools, operating under guidelines set down by the ministry. The system is an important component of school-based curriculum development and I think it has contributed to a retention rate in our Territory which is far higher than any other education system in the country has attained.

The relevant performance of students across the colleges is established, in part, by a truly external examination, namely, the ASAT test, which is set and marked by independent external examiners. ASAT is also used by Queensland and Western Australia, and I understand that it is also under consideration by a number of other States. Of course, 99 per cent of students who obtained a tertiary entrance score in the ACT last year were eligible to attend tertiary institutions across Australia. That is an extraordinary achievement, Mr Speaker, and it says something about our system. Studies show that ACT students who continue on to university perform as well as their peers educated in other education systems, and I would not be surprised if, in fact, they perform much better.

Fluoridation

MR STEVENSON: The Attorney-General's answer to the question as to what actions he has taken over my statements in this house on organised crime and the X-video connection was most appropriate, so I do not need to ask it. However, I do have a question for the Minister for Health, Gary Humphries, and it concerns a quote from the Canberra *Chronicle* by a concerned Canberra citizen about compulsory fluoridation. It states: "I am a citizen, a voter, a taxpayer and a water drinker. I cannot reconcile the compulsory dosing of the population with any sort of democracy or personal freedom". Would the Minister explain why Canberrans are still being compelled to ingest sodium silico-fluoride?

MR HUMPHRIES: Mr Speaker, no, I could not, just at the moment. There is a debate on fluoride pending in this Assembly as a result of the report of the Standing Committee on Social Policy. That will be a more than appropriate venue at which to canvass these issues. I could express a personal view on the matter; but, quite frankly, I think my views personally are already very well known to Mr Stevenson and to the rest of the members of the Assembly. I think the more appropriate place at which the Government and other members of parties in this Assembly should make their views known on that standing committee report would be in the context of the debate we have at that time on that report, and not now.

MR STEVENSON: I ask a supplementary question, Mr Speaker. As the Minister refers to the report by the Social Policy Committee tabled two months ago in this Assembly, would the Minister indicate what specific action he has undertaken to speed up that debate in this Assembly? Perhaps he may wish at this time to mention whether or not he has read the full report and not just the part in the front.

MR HUMPHRIES: Mr Speaker, the Ministry for Health, Education and the Arts has been asked to progress a government response to the report of the Standing Committee, and I would expect that response to be available some time in the next few weeks. We have an informal policy of attempting to get responses to Assembly committee reports down within approximately three months, and that would, I hope, be the target we would meet in this case; but I cannot make any firm promises on that.

In terms of whether I have read the whole report, I have to say, Mr Speaker, that the pressures of office have been enormous in the last few months and, to my great regret, I have not yet completed reading Mr Stevenson's section of the report of the committee on fluoride. However, I will do my very best to do so before the Assembly committee's report is considered by the Assembly.

Public Education

MR MOORE: My question is to Mr Humphries as Minister for Education. Minister, I draw your attention to the March issue of *Feedback,* the P & C newsletter, in which it is said:

> Many parents will be aghast at the thought of yet another inquiry into government school organisation in the ACT. This year alone we have:
>
> Belconnen Region High Schools Task Force ...
> another high school review ...
> a proposed review of the college system,
> a review of policies for students with special needs,
> a review of funding for non-government schools ...
> an inquiry into school-based management,
> proposals for literacy and numeracy testing,
> implementation of the relatively new school review and development process.

They then go on to say:

> We are entitled to ask the Government for an overview of its objectives for government schools in the ACT. Where is public education going in the ACT? How do each of the reviews in 1991 of different aspects of that system fit together in this vision of the future? To what kind of system, and for what purpose, are those reviews intended to contribute?

I hardly expect you to give a full answer off the cuff, Mr Humphries, but I think a general answer now and then a full response to the community, perhaps in a ministerial statement, would be quite appropriate. Would you be prepared to take that on?

MR HUMPHRIES: I am a bit puzzled by the comments made there. I have met regularly with the P & C Council of the ACT since becoming Minister. Approximately every six weeks I have a regular meeting with the P & C Council's representatives. We have a very good discussion on each of those occasions about current issues facing the Territory. I am a bit concerned that that report in the P & C newsletter should carry some concern about that matter when no such matter has been raised with me. I met with them as recently as Wednesday of last week before I went to Adelaide to attend the meeting of the Australian Education Council. Incidentally, that meeting was to discuss with them the issues that would be raised at that council meeting.

I honestly cannot understand their criticism. It seems to me to be a criticism of the level of consultation that is going on on the part of this Government. I have had plenty of criticism of so-called lack of consultation; now we are getting criticised because we have too much consultation. All the things they refer to in the list that you read out are activities or fora in which the ACT is participating with the community in a debate on what direction particular aspects of the education system should be adopting - in other words, a task force on which there are P & C representatives; green papers on which the P & C and other bodies are lodging submissions; a whole series of processes which involve the community.

I honestly do not know what more I can be expected to do, other than to put these issues on the table properly and fairly, indicate what it is the Government would like to do, and allow sufficient time for them to be debated. There has been criticism as well, occasionally from the P & C Council, about time limits on these things. They have argued that limits of less than three or four months are inadequate in their view. I am not sure I necessarily agree, but I am prepared to take that criticism on board. In fact, in several cases the Government has extended the period of time for which particular submissions are allowed on green papers that the Government has released.

So honestly, I cannot say that I understand the criticism. I find it hard to see what more I can do in this matter, except extend indefinitely all the processes of consultation that are going on. We are facing a time of critical change. We do have to adapt to new circumstances. It would be foolish to let the status quo sit as the only way in which you could conduct a sensible and sound education system in the Territory. That is not acceptable to this Government. I think we have to manage the process of change through adequate and meaningful consultation, which is exactly what we are doing.

MR MOORE: I ask a supplementary question. The Minister mentioned that we are going through a time of change. I think he missed the overriding point of the question, which is to say that we recognise all these consultations, but what is the Government's overview and how do these consultations fit into that overview? I think that is the critical question. How do they fit together in your vision of the future after you say what your vision of the future is? I said quite clearly in my initial question that I do not necessarily expect a full answer to that now, but I would appreciate a rather full answer, perhaps in a ministerial statement in the next sitting week, for example. Would you be prepared to take that on?

MR HUMPHRIES: The Government's aims can be quite clearly summarised as desiring to create a more effective and efficient school system which is affordable to the Territory in the future. That is a summary of our position. It does not need a ministerial statement to say that. It is very simple and straightforward and is dictated as much by the circumstances in which the Territory now finds itself as by any particular government policy. If it is considered necessary to amplify or elaborate on any of the matters within that statement, I am happy to do so and I will consider it on that basis; but at the moment I have to say that I cannot see any reason to elaborate on that basic concept.

Domestic Violence

MR JENSEN: Mr Speaker, my question is directed to Mr Collaery in his capacity as Attorney-General. What action has the Attorney taken to look at the issue of domestic violence from the perspective of the perpetrator?

Ms Follett: Didn't we try this one yesterday?

MR COLLAERY: I thank Mr Jensen for the question. Ms Follett again makes a frivolous comment about whether we tried it yesterday. I think we would all agree that the person who did try it yesterday seemed in need of care and assistance. That is a theme that I believe we need to develop - to adequately express our concern for domestic violence victims and to try to stop perpetrators doing it and to bring them around to understanding the nature of their acts.

Mr Speaker, whilst I was in Adelaide at a ministerial meeting recently - that was on 26 March - I took the opportunity also to meet with Alan Jenkins, a domestic violence therapist, to discuss domestic violence from the perpetrator's perspective. It had been suggested to me by a non-government agency that I should speak to this person. Mr Jenkins has written a book called *Invitations to responsibility: the therapeutic engagement of men who are violent and abusive.* He is a psychologist who uses systemic and developmental theories

in an innovative way, with the objective of having individuals mature by identifying and taking responsibility for their actions and modifying and improving their behaviour.

As we know, counsellors are increasingly drawn to a conclusion that men - particularly men - have to undertake and understand their responsibility for their actions; that it was not caused to them by their mothers necessarily, by this society, by feminist action, and all the rest. I spent a fascinating hour or so with the Chief Police Officer, who happened to be accompanying me in Adelaide, and with a member of my staff. It seems that it would be most useful if Mr Jenkins could come to Canberra at some stage so that agencies can draw on his expertise and so that the Government can draw on his expertise in dealing with our processes to establish some method of assisting the community by tending to these perpetrators.

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

UNPARLIAMENTARY LANGUAGE

MR SPEAKER: On Wednesday, 20 March, I gave an undertaking to the Assembly that I would review *Hansard* and report back to the Assembly following a point of order concerning a statement made by Ms Follett that Mr Humphries had misled the Assembly. The incident is recorded at pages 69 and 70 of the proof *Hansard.* I have reviewed the *Hansard* and have concluded that the words "my first question during question time today, which related to Mr Humphries misleading the Assembly" do warrant withdrawal. I therefore request that Ms Follett withdraw those words.

Ms Follett: I withdraw the imputation, Mr Speaker.

PAPERS

MR COLLAERY (Deputy Chief Minister): For the information of members I table the following papers:

Community Law Reform Committee -
Report No. 1 - Section 556 of the Crimes Act 1900 (NSW).
Report No. 2 - Occupiers Liability.
National Training Board Ltd - Report for 1989/90.
Radiation Act - Radiation Council, Report for 1989/90.

Mr Speaker, I seek leave to make a short statement.

Leave granted.

MR COLLAERY: The two Community Law Reform Committee reports have resulted in legislation which will be presented in the Assembly in the near future.

CIVIC SQUARE REDEVELOPMENT PROJECT
Ministerial Statement

MR KAINE (Chief Minister), by leave: My previous statement on this matter on 19 March indicated that the Government had given the preferred tenderer a 28-day extension to confirm sources of finance for the project. That period expired yesterday. The Government has now been advised that the preferred tenderer for the project has not been able to secure finance.

It should be remembered that the concept of a redeveloped Civic Square precinct, which the Territory inherited from the Commonwealth, involved more than just a casino and required tenderers to develop a scheme including hotel accommodation, offices and other commercial uses that would provide new life to the city centre. It would be fair to conclude that, despite very strong interest in establishing a casino in the Territory, the level of project finance required for the total development has proven difficult to secure in the current market in what is generally a subdued Australian economy.

The process begun by the Labor Government so many months ago has now run its course. The Government is extremely disappointed with the outcome of this process. However, it is still very much aware of the benefits that will accrue to the Territory with the establishment of such a project. These benefits are in terms of employment in the construction industry, positive impacts for tourism, long-term employment and Territory revenue, combined with a general boost to the Territory's economy.

Ministers will consider as soon as possible other action that the Government can take to ensure that the failure of this process does not have serious consequences for the local economy. These considerations will include a possible new process for the establishment of a casino and other initiatives to encourage the local construction industry.

SUMMER STREET MACHINE NATIONALS 1990
Ministerial Statement and Papers

MR COLLAERY (Attorney-General), by leave: On Wednesday, 12 December 1990, I stated in the Legislative Assembly that I would be tabling reports on the conduct and impact of the 1990 Summer Street Machine Nationals, known colloquially as the Summernats. This commitment was in response to comments by members of the Assembly on the behaviour of participants and the benefits to the community. I am now in a position to table two reports on the 1990 Summernats.

The first is a police report prepared by the Chief Police Officer for the ACT. It shows that overall the Chief Police Officer is pleased with the conduct of the 1990 event and that this can be attributed to the early planning undertaken by the Australian Federal Police, my colleague Mr Duby's Department of Urban Services, and Street Machine Services and Natex. I am advised that police did not encounter the extent of illegal activities, including drunk and disorderly behaviour and dangerous driving, experienced in the 1989 Summernats. From a statistical point of view, although they may not necessarily reflect the gravity of conduct, the 1990 statistics were: 115 charges and 686 traffic breaches, compared with 217 charges and 825 traffic breaches during the 1989 event. Further, Mr Speaker, whilst there were several complaints from residents in the suburbs of Downer and Watson concerning disruptive behaviour, the number of complaints was well down on the 1989 event.

The second report is an analysis of the economic benefits of the 1990 Summernats to the ACT. It provides estimates of the number of visitors attracted by the event and their expenditure. The report estimates that 17,500 interstate tourists visited the ACT for the Summernats and spent $5m. The incremental cost to the ACT Government due to the Summernats was approximately $111,000. The net economic benefit to the local economy was therefore about $4.9m. This economic benefit to the ACT economy is especially significant because the spending has a high employment generation effect.

I would like to take this opportunity to thank the police officers and the public officials, particularly members of the Chief Minister's and Mr Duby's departments, who have assisted in preparing these comprehensive reports. I would also like to say that the Summernats clearly will be a matter for continued consideration by government in the context of the overall benefit to the community and matters that were still, and perhaps still are, of concern to residents in the suburbs of Downer and Watson. Mr Speaker, I commend the reports to members of the Assembly for their information, and move:

> That the Assembly takes note of the papers.

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

SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION - STANDING COMMITTEE
Report and Statement

MS MAHER: I present Report No. 7 of 1991 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation and seek leave to make a brief statement.

Leave granted.

MS MAHER: Report No. 7, which I have just tabled, details the committee's comments on the Unlawful Games (Amendment) Bill 1991, together with a number of pieces of subordinate legislation. As I commented this morning, this piece of legislation was put before the house yesterday afternoon and Professor Whalan, our adviser, worked on it last night and gave a report to us this morning. I thank him for his support and advice to the committee. I commend the report to the Assembly.

COMPULSORY IMMUNISATION
Statement by Member

MR PROWSE, by leave: Mr Deputy Speaker, I would just like to clarify remarks I made about compulsory vaccination. Members will note, if they carefully read yesterday's article in the *Canberra Times,* that the medical officer who was interviewed in fact supports most of the statements attributed to me, despite the personal attack to which he stooped. I might add that nowhere have I stated that children should not be vaccinated. What I did say was that parents have a right to be informed of the risks associated with vaccination to enable them to make an educated judgment on the issue.

Prevention of life threatening and maiming diseases by invading a healthy body with medically controlled safe dosages of viruses is a panacea which the world's leading scientific medical humanitarians have set as a goal for mankind. To date, this has not been achieved. Safety cannot be assured, and this shortcoming is attested to by reports of medical and mental maiming which occurs as a direct result of vaccinations each year. I challenge anyone who would argue against this statement to provide the necessary guarantee.

Sir Graham Wilson was a lecturer in the Department of Bacteriology at the London School of Hygiene and Director of Public Health Laboratory Services, England and Wales. In his book *The Hazards of Immunisation* he stated:

> I want to make it abundantly clear that I am not anti-vaccinationist - vaccines of one sort or another have conferred immense benefit on mankind - but they have their dangers.

Dr Salk, of Salk polio vaccine fame, made a similar statement. To my knowledge, all medical practitioners and the vaccine manufacturers agree. What is at variance is the matter of the degree of weight given to the advantages versus the dangers. However, anyone who states that vaccination is totally safe is either a liar or a fool or both.

The question has also been asked: Do vaccinations work? No double blind study has ever been conducted in Australia to prove the worth of modern vaccinations manufactured in this country. Also I am unaware of any such scientific study of worth being conducted anywhere in the world. I pose the question in an attempt to influence the initiation of such a study by medical authorities. At the same time, I acknowledge the difficulty of the task.

The question posed, of course, is: What substances make up the vaccination injection? Attenuated - that is, weakened - dosages of either dead or live viruses bred as tissue cultures are mixed with a number of chemical adjuvants, including aluminium phosphate, and in some cases formaldehyde. These are designed to keep the vaccine active for a longer period. And, of course, there is also the bulk carrying saline material. Reactions to these chemicals do occur in susceptible patients who are allergic or who at the time are in ill health.

These serums have a shelf life, but no-one can be sure of their potency and exact composition only days after manufacture. This is particularly so because of the refrigeration requirements. The only way a vaccine in general, or more specifically a particular batch of vaccine, can be accurately tested for its effect on a particular child is to inject it and watch the result. Live virus vaccines against poliomyelitis and influenza may in each instance produce the disease it was intended to prevent, and a vaccine against measles and mumps may produce side effects including, on a rare basis - about 1 : 1,000,000 vaccinations - the brain damaging encephalitis. Encephalitis from the disease is listed at 1 : 100,000 infections. I further note that the standard test for the vaccination "taking" - that is, that it has in fact worked - is for the healthy body to become sick. Severe reactions to some vaccinations have been calculated as high as 1 : 200. Of course, in depressed socioeconomic groups this can be one in every two children. The reference there is Dr Kalokerinos.

I believe that, because the safety of vaccines cannot be guaranteed in each and every case, the necessity for the vaccination of a patient against a particular disease should be ascertained by the patient being blood tested to

identify what antibodies are already present due to previous illnesses or by transfer from the mother. I understand, of course, that this is not possible for all diseases. Also, a blood count could be carried out to ascertain the patient's general health and the patient's ability to withstand an invasion of his or her blood by a foreign disease carrying substance - which is the form of vaccination, of course.

A New South Wales based group called Immunisation Investigation Group has been recently formed and it aims to record the damage to children's health which has directly resulted from immunisation. To date, death, brain damage, permanent disability and ill health have all been reported to this group. I acknowledge that many more deaths and cases of permanent disability are likely to occur because of the disease. Therefore, I applaud and encourage safe immunisation and other prophylactic measures against diseases - including homeopathics. My understanding is that the AMA would support compulsory vaccination only if those who suffer extreme trauma as a result are financially compensated. Why, if vaccination is safe?

The NHMRC reports on immunisation prior to school entry clearly state that they support compulsory notification of immunisation status, not compulsory immunisation. I might add also that the ACT health department supports the NHMRC stand on this issue.

I acknowledge that many more deaths and cases of permanent damage may occur because of the disease than will occur due to the vaccination. However, who, other than a parent, has the right to make this decision, which is based on chance? My call is for the medical professionals to advise each patient of the risks, be they ever so small. It has been publicly mooted that the ACT Government should consider as a matter of policy that all parents must have their children inoculated or else education of the children will be withheld. In my view, that is a most dangerous proposal, albeit for the best motives. I do not support such a move. I do support the NHMRC and its call for compulsory notification of the immunisation status of all school children.

MR BERRY: Mr Deputy Speaker, I am just trying to find the standing order which deals with a motion to require members to table material. It is standing order 213. If Mr Prowse would agree to table his speech it would be helpful.

MR PROWSE: I certainly have no problems with that. I table the following paper:

> Immunisation - Speech notes.

COURT STRUCTURES IN THE AUSTRALIAN CAPITAL TERRITORY - REVIEW
Ministerial Statement and Paper

Debate resumed from 20 March 1991, on motion by **Mr Collaery**:

That the Assembly takes note of the papers.

MR JENSEN (3.28): Mr Deputy Speaker, the Curtis report has provided the community with an opportunity to consider the options for the future of our court system. In fact, this report now has been on the table for some time. It was tabled, I believe, by my colleague the Attorney-General in August 1990.

The final decisions which flow from the report and the subsequent community and professional input that follows will, I suggest, be important for the future of the court system and structure within the ACT; and, I think like all interested members of the ACT community, we all welcome the degree of debate that has taken place on this issue.

However, today I would like to restrict my remarks in the debate to the issue of planning appeals and the need that has been identified for changes in the approvals and orders section, as it now is, of the planning legislation. Of course, the section of the Curtis report this relates to is that on administrative appeals. Members are no doubt aware of an ongoing dispute in South Tuggeranong between two groups of residents or potential residents.

Mrs Grassby: We certainly know.

MR JENSEN: I have no doubt that it would not have got to this stage if the proposals for planning appeals in the government legislation had been in place prior to the decision being made. It is interesting to hear Mrs Grassby make a comment on that. I am not sure whether Mrs Grassby has been to any of the public meetings, but I know that Mr Connolly certainly has. In this case, they were meetings arranged by the Interim Territory Planning Authority, exercising its responsibilities under the guidelines for design and siting approvals, and I would suggest that that is probably one area in which some work must take place in the future. In fact, my recollection is that back in 1988, prior to the commencement of self-government, that exercise had in fact started.

I am sure that some of us are also aware of a similar argument some years ago when a group of residents attempted to have changes made to a design and siting approval after it had been granted. However, we all know that this battle was lost, at some cost to the residents, after the changes to the proposal only scratched the surface of the problem.

It is of some concern that this Assembly has yet to pass the necessary legislation. However, I also believe, as does the Opposition if the statements by Mr Connolly are to be accepted, that we must ensure that the new legislation is as right as it possibly can be from the start. However, this means a large amount of community input on the legislation, upon which the Government, in the first instance, and the Assembly, in the second, need to make final decisions. That will come in time, we hope, for its implementation on 1 July 1991. However, I would expect that, while we will do our best to get it right, there are bound to be some teething problems as well as issues on which the Government chooses not to accept alternative proposals for policy reasons.

There is one issue on which there is no doubt, and that is the need to remove the Supreme Court from the appeals process and develop a system which allows for the citizens of Canberra - be they residents or developers - to have their day in court without the expense of QCs and the escalation in the complexity of issues that such representation implies. The problem of deciding the extent and nature of the appeals process was obviously one of the reasons why it took so long for the Follett Labor Government to table anything on the planning legislation - until the end of 1988, when incomplete drafting instructions - - -

Mr Connolly: Mr Deputy Speaker, I raise a point of order. We have listened to this for some minutes. We are supposed to be discussing the court structure and Mr Jensen seems to be reading a speech on the planning process. I am wondering whether the court structures paper has got lost and the planning paper is being read as a result. It does seem to be a strain on relevance.

MR DEPUTY SPEAKER: Thank you, Mr Connolly. Mr Jensen, if you could get back to the court structures review - - -

MR JENSEN: Could I refer Mr Connolly and you, Mr Deputy Speaker, to page 72, et al, of the Curtis report, which deals with administrative appeals and the planning appeals process, which fits into this particular area. So, as I indicated, Mr Deputy Speaker, I think it is quite appropriate for me to talk about planning appeals because, as Mr Connolly well knows, the planning appeals procedure and processes are proposed to be included in the jurisdiction of the Administrative Appeals Tribunal, to which this particular matter refers. So I would suggest that, once again, Mr Connolly has been a bit too quick off the mark. You should wait until you have listened to what I have to say before you stick your oar in. Take your learner's plates off, Mr Connolly, and just be a little more patient.

Before I was so rudely interrupted by Mr Connolly, I was talking about the fact that the Follett Labor Government actually did nothing about this very important aspect of planning appeals via the Administrative Appeals Tribunal which, as Mr Connolly mentions, is included in here.

Mr Connolly: Mr Deputy Speaker, I am compelled to rise to my feet again. We are supposed to be talking about court structures. Mr Jensen is giving a speech on planning. I suppose anything can come to court, so Mr Humphries will no doubt give us a speech on the school system because I have said that I might take that matter to the courts and that therefore makes it relevant. Can we have a direction that we ought to be addressing the Curtis report, not the planning system?

MR DEPUTY SPEAKER: Thank you, Mr Connolly.

MR JENSEN: Once again, Mr Deputy Speaker, as I have already indicated in my speech, the issue of planning appeals is part of those court structures.

MR DEPUTY SPEAKER: If you relate it to the Curtis report, that is all right; but let us have that relation.

MR JENSEN: Let me then directly relate it to the Curtis report, Mr Deputy Speaker. I refer Mr Connolly to page 73, if he would like to take the time to turn to that particular page. It talks about persons seeking review from merits and judicial review. I quote:

> ... there will be cases in which it is desired to challenge a decision subject to merits review on grounds which go both to the substance of the decision and to the procedures by which it was reached or even the legal power to make the decision. It is desirable that all of those grounds of review should be ... dealt with by the same body; to require a choice to be made whether to go first to a court for a judicial review or to a tribunal for merits review adds to the cost and complexity of the review system.

If planning decisions are not subject to that sort of activity, what in God's name is? So, just to respond once again to the fatuous comments by the member opposite, I suggest that, in fact, what I am talking about is directly related to the issue raised by Mr Curtis in his report.

The whole issue of planning appeals relates to the court structures in the States. It might be interesting to note that there was a recent statement on a similar report on the court structures in South Australia. An article in the *Weekend Australian* in May 1990 refers to the suggestion that development rows should now be settled in new courts. It refers to a report by an Adelaide QC, Mr Brian Hayes, and solicitor Ms Christine Trenorden of Norman, Waterhouse and Mutton, also of Adelaide. That was produced for the

Federal Department of Industry, Technology and Commerce. It talks about combined jurisdiction for development appeals in the States and Territories.

So the ACT is not the only jurisdiction in Australia that is looking at this particular issue. In fact, we are all probably fully aware - if Mr Connolly has been doing his homework on planning appeals matters - that there has been considerable discussion about the situation in Victoria in relation to planning appeals under its planning legislation. In fact, members will recall that there has been some suggestion that over 4,000 appeals on planning matters have been heard in Victoria since the introduction of the new legislation. That particular matter is probably related to the nature of the planning system in Victoria, and any suggestion that there would be a similar problem in the ACT would probably be missing the mark.

I suggest that we will probably find that the system in the ACT, with the proposals for many of the decisions to be made within the plan itself and not being subject to direct appeal, will in fact reduce the number of appeals. On that basis, I think it is quite appropriate for me to talk about this matter of where the appeals process for planning matters fits within the administrative appeals structure of the ACT.

It is important to recall the recent publicity in relation to the New South Wales Land and Environment Court. There have been some suggestions that the court has now become a QCs' paradise. In fact, in planning appeals and processes, it is now a case of, "My QC can out-trump your QC", as far as the ability to bring matters to the court is concerned. That, of course, reduces the ability of the community to participate in this process. I am sure that that is one of the matters that the New South Wales people will look at. It is one of the traps that I hope the ACT will not fall into when we review our court structures as they relate to development and planning appeals.

The Curtis report is a very important document for the people of the ACT. It is a very clear discussion paper. It provides suggestions on the way a newly self-governing ACT can take the bit between its teeth, so to speak, and conduct a review of its court structures. I welcome this opportunity to make sure that planning appeals within the ACT are brought kicking and screaming into the twentieth century as opposed to their being allowed to languish for many, many years, without any attempt to fix up the problems, under the colleagues of this Labor group opposite.

In fact, I have a vivid memory of a cartoon in the *Canberra Times* just prior to the election which referred to a certain Minister of a previous Federal Labor government signing documents as he was about to go out the door. Of course, a couple of those documents related to matters of planning. In fact, because of the sheer sloth of the previous Federal

Labor governments in this town, there was no avenue or right of appeal against those sorts of decisions for the residents. They were done, literally, as the lights were turned out by the Federal Labor Government. I hope that the Curtis report, and the options raised within the Curtis report, will ensure that those sorts of incidents are not allowed to happen again.

MR HUMPHRIES (Minister for Health, Education and the Arts) (3.41): Mr Deputy Speaker, I welcome this report. I have long believed that the ACT needed to review and reconsider its court structures. As one who has worked in those courts, I understand both the strengths and the weaknesses of that structure, and I am very happy to see this opening salvo, as it were, in what I hope will be a very significant public debate.

I think the first thing that strikes one when reading this report is that for a very long time courts in the Australian Capital Territory have been at the very bottom of the Commonwealth's priority list. National needs quite clearly have prevailed over the ACT's needs for some time. That, of course, is a pattern which is evident not just in respect of courts. Obviously the situation in our hospital system and the state of the Royal Canberra Hospital North are very much evidence of that particular problem. Nonetheless, self-government has given us the opportunity of reviewing our assets and ensuring that they keep up with the needs of people in this Territory as well, of course, as stay in tune with our financial capabilities.

At the time of the release of this paper, Mr Collaery, the Attorney-General, described it as an historic document which was likely to put the ACT "at the forefront of court structure reform in Australia". The review was prepared by Lindsay Curtis of the Commonwealth Attorney-General's Department. I do believe that, as Mr Collaery indicated, the paper is historic. It is, of course, very much a matter of debate as to how far the States could take reforms of the kind mentioned in this paper, given that we have a particular opportunity in the ACT that stems from our size, and in particular the lack of large distances.

Obviously in the States it is important to provide court structures that permit access to people in a wide variety of places, and the problem in those other States has always been how one provides access to superior courts in such a way as not to deny people access to affordable justice, but also in such a way as not to spread the resources too thinly and have judges constantly on the road travelling between regional centres, sitting as superior courts. So there are limited opportunities for reform elsewhere in Australia based on our ACT possibilities; nonetheless, there is no reason for us not to explore the best model for us here.

The report notes a number of things I want to comment on. It does, among other things, of course, highlight the extent of Commonwealth neglect of our court system, which I have already referred to. It says:

> The Territory courts have been under-resourced for a number of years.

It also says - and this is a point particularly relevant to anybody who has worked in the court system:

> The accommodation, especially for the Magistrates Court, is quite inadequate. That results in additional costs for the court and for litigants, and confusion for the public. Inadequate attention has been given to the management structures for the courts.

I can only say to that comment: Hear, hear! I recall on occasions, when I was a solicitor in this city, having to attend a particular court at 10 o'clock, arriving at one of the venues for an ACT Magistrates Court or Federal or other court and discovering that I was at the wrong location. I discovered that there were other places where such matters as that in which I was involved took place. Of course, that is a continuing problem while we have a court system spread out over a large number of locations. I fully support measures that would alleviate that particular problem.

As this paper makes clear, the solutions are not necessarily just in building better buildings in which to house or collocate particular courts and their associated offices. The answers also lie in a better organisation of court structures in the Territory, such that the lack of smooth flow between, say, the Magistrates Court and the Supreme Court is mitigated as much as possible.

I have heard, I think, that the NRMA, as a major litigant effectively in the ACT, makes the comment that the lack of a district court type function in the ACT is a serious problem. There is the District Court in New South Wales and there are county courts in Victoria and, I think, South Australia - that sort of court structure which is intermediate between the Supreme Court and the Magistrates Court. It is a level of court structure which is of intermediate cost to litigants but with sufficient jurisdiction to deal with large sums of money such that there is less of a problem with having to go to the full cost, expense and time necessitated by an action in the Supreme Court. Obviously for litigants in certain categories of case, it would be important to have a structure like that. It may be that the process outlined by Mr Curtis would be a valuable way of progressing some addressing of that problem; in other words, creating some capacity to offer a district court type function in the ACT without necessarily having to appoint judges of a district court.

The report gives instances where some steps have been taken to improve matters in the Territory, and it states that some steps have been taken towards case management. But in neither court - that is, neither the Supreme Court nor the Magistrates Court - has there been a comprehensive and systematic attempt to actually do this. We have, of course, had some quite significant and substantial improvements in recent years. I was delighted to see the appointment of a Master of the Supreme Court in 1989 which, of course, relieved judges of some important administrative and lower level duties.

Some important additional funding for the Magistrates Court was also provided in the 1989-90 Commonwealth Budget - also a matter of some delight to me - which allowed the appointment of two additional full-time magistrates. But, overall, the position and the picture are not particularly impressive. Mr Curtis himself said:

> These deficiencies are a reflection of the fact that Commonwealth priorities were generally directed elsewhere.

And, of course, the infrastructure provided elsewhere in the Territory for particular activities and facilities stands in strong and sharp contrast to what is provided in the way of court services in the ACT. We cannot lose sight of the fact that we need to have an affordable court system, but that has to be addressed at the same time as we look at the other problems facing the system, particularly the fact that the structures presently are unwieldy; that they create unnecessary barriers; that the present structure lacks a proper database for planning, which is a serious matter; and that it is costing us money because of built-in inefficiencies.

One last matter in the report I would like to refer to is professional costs. To anybody who has worked in the system, professional costs are very important, and there are a number of interesting comments made in the section on professional costs in the report. At one point, in paragraph 17.13, Mr Curtis even goes so far as to suggest that there is a primary question as to whether there should be a continuation of the scale of costs. He goes on to suggest that it might be:

> ... too radical a step to take at this stage to abandon scales of costs as a means of regulating fair charges for the conduct of professional work in litigation ...

Obviously that is a very important question and I would support his concern and caution there. We cannot allow courts to become places where people can effectively lose the shirts off their back because there are not sufficient controls on the amounts that they might be charged. But obviously there is a problem with the inflexibility of the

present structure. We range from the Small Claims Court, where there are no costs, up to the Supreme Court, where the costs can be absolutely extraordinarily high in certain circumstances. I would support the exploration of some of the features of his report that suggest better ways of managing those cost structures.

I welcome this report, Mr Deputy Speaker. I think it is a very valuable, as I said, opening salvo in what I hope will be a very full-blooded community debate. I am very hopeful that we will get, at the end of the day, an innovative and relevant court structure for the ACT. There is no reason for us to apply, in an undiscriminating fashion, inherited structures in the ACT now that we are self-governing, and I sincerely hope that we end up at the end of the day with a much more flexible and relevant court system as a result of these changes.

MR COLLAERY (Attorney-General) (3.51), in reply: Mr Deputy Speaker, I thank members for their comments on this matter. I do not intend to retraverse that which has been said over such a lengthy period. It is clear that the Government is about to consider at Government level the various recommendations and the very learned, in parts, responses from the public, the judiciary and other sources, including such broadly spaced interests as the judiciary, as I have said, the legal aid community, ACTCOSS, the Bar Association, the Welfare Rights and Legal Centre, the Conflict Resolution Service, VOCAL - that is the Victims of Crime Assistance League - and individual members of the community, and so on.

The replies were quite varied, but there is a strain through them, on my analysis, that we need the types of reform that most of you have alluded to - in fact, if my recollection serves me right, that all of us support. There is a clear consensus in that regard. There are more profound issues to resolve with the judiciary, of course. I am sure members are aware that issues of tenure, constitutional issues, cross-vesting issues, and issues involved in defining jurisdiction with the Commonwealth are moot ones for debate in this Assembly.

I will not go any further, other than to say that the Government has, at the same time, prepared a Judicial Commission Bill which has been made available in one or other of its draft forms to relevant parties - of course, in confidence - for perusal prior to its introduction in this Assembly. At the same time, as I understand it, other matters are being pursued with the Commonwealth Government to ensure that we can come to an agreed position on tenure in relation to any reconstituted or transferred Supreme Court.

Coming down from those lofty issues to those of the people, there have been strong arguments in favour of reduced formality and so on in the report. The issues that we need to face in reaching a decision on this matter are the role

and place of the Children's Court and the Family Court, and their interaction with roles that come out of the Office of Community Advocate, particularly the guardianship role that we are going to introduce shortly.

I thank the members of the community - all of those groups and others - for their comments. I want to assure those who have expressed fears that there might be some detuning of our finely developed administrative law functions in the Territory that that will not occur. The ramifications for administrative law, I think, were made out by a number of commentators, including Mr Connolly. I do not think there is any dispute about the essential concern we must have to preserve the advances that have been made in that jurisdiction, and to ensure that we do not formalise and lawyerise and thereby undo the reforms of the 1970s and onwards in administrative law.

In essence, the Government is not faced with widely differing views in the responses. It is faced with some different solutions offered for commonly perceived problems. Clearly, what we have to deliver is accessible, swift justice. That requires not only a court structure that works but also a court fabric and, as members know, the Commonwealth has not yet shown any sign of honouring the clearly understood agreement with the judges of our Supreme Court and the magistracy that it would provide a proper court precinct for the court judicial community in the Territory. The Commonwealth has not done that and we are left with the hotchpotch that my colleague Mr Humphries referred to. That is a matter on which I trust we will get bipartisan support when we come to deal with the issues of the proposed court precinct, the Federal funding contributions to that and Federal involvement with the Federal Court.

The relevance of the next issue that I wish to raise was, I thought, borne out in question time today in my response to a question regarding someone's stay in the Belconnen Remand Centre. Stays in the BRC seem to be exceeding 200 days - on my swift analysis - and can even go close to 300 days. Any court process is dependent largely on the effective workings of those who litigate in it. When parties to criminal proceedings find themselves not to trial after close to a year whilst a person remains in custody - and, as our law stands, innocent - we have serious questions arising that we need to address in the overall context of expediting proceedings.

It is common for governments to be attacked for those problems. This is a government that is attacking the issue holistically and will continue to do that. I cannot, in the time available to me, tell you all of the fronts that we are working on at the moment to deal with jurisprudential problems, sentencing problems, and other issues in the Territory. They have to be approached without offending all of those influential groups involved, and while maintaining public confidence in the judicial

system during that process. This is vital, unless we are to be faced with wholesale civil disobedience. I am of the view that the Government needs to at least announce its interim approach to this issue within the next two months. I thank members for their comments.

Question resolved in the affirmative.

COMPULSORY IMMUNISATION
Statement by Member

MR PROWSE: Mr Deputy Speaker, I seek leave of the Assembly to incorporate a little more than one sentence in the tabled document that I have just read from.

MR DEPUTY SPEAKER: Do you have the original document there?

MR PROWSE: The original document has been submitted to the Clerk and I would just like to add one sentence to make sense of the tabled document.

Leave granted.

MR PROWSE: The final paragraph on page 4 currently reads:

> A New South Wales based group called Immunisation Investigation Group has been recently formed and it aims to record the damage to

The following words should be added:

> children's health which has directly resulted from immunisation. To date, death, brain damage, permanent disability and ill health have all been reported to this group.

I thank the members.

HOME PURCHASE ASSISTANCE ARRANGEMENTS
Ministerial Statement and Paper

Debate resumed from 20 March 1991, on motion by **Mr Collaery**:

> That the Assembly takes note of the papers.

MRS GRASSBY (4.00): Mr Deputy Speaker, in noting Mr Collaery's wide-ranging ministerial statement on a major reform of the ACT home purchase assistance arrangements, there are a number of points which I should like to make. Initially let me say that the Labor Opposition has no problems with the new administrative arrangements for the

Commissioner for Housing loans to be known as HomeBuyer; nor do we have any problem with the introduction of a deposit assistance program to be known as HomeEntry.

And why should we, Mr Deputy Speaker? There has existed for quite some time the need to revise the criteria for eligibility for Commissioner for Housing loans. Consequently, it is good to see the maximum income level raised from $630 a week to $750 a week, the maximum property value rise from $90,000 to $117,000, and the rise in the loan limit from $70,000 to $95,000. As the Minister noted in his speech, "the new limits bring the Commissioner for Housing loans back into line with the market conditions". May I also add that it is heartening to see that the maximum limits just mentioned will be revised at least every six months. Nevertheless, this is where the congratulations start and finish.

I will now move on to examine the proposal to sell Housing Trust properties to current tenants who have occupied Housing Trust properties for at least 10 years. Before the Minister interjects re the two houses in Barton and Griffith sold by me when I was Minister for Housing and Urban Services for an amount over $700,000, I point out that the reasons why these houses had to be sold were very clear. Let me now enlighten the Assembly on those reasons.

Both houses were in very, very poor condition. In fact, the Housing Trust found them impossible to let because of their condition. They were both in heritage areas, and therefore the amount of money the Housing Trust would have had to spend on bringing them into such a condition for them to be rented would have been enormous. In light of the rent we could have got for them, they would have made a very expensive pair of houses for the Housing Trust to maintain and own. Thus, the decision to sell both these houses was made after long consultation with the Cabinet, including the Chief Minister at the time, Rosemary Follett, and with the Housing Trust. The amount could then be used to purchase houses in that area or, where there was an area where townhouses could be built, we could pull the houses down and build six to eight townhouses. This was the idea that this money was to go to.

Before providing details about the Minister's proposal, let me put on record that the ACT Labor Party does not hold any ideological opposition to the sale of public housing to its tenants. This is well worth stressing to stop those opposite from making the cheap shot that we do not want people to own their own homes. It is a good thing that people own their own homes, especially those Housing Trust tenants who have put years of love and care into their houses and who have in fact turned a house into their home. This is an important distinction to make.

The problems I perceive with the Minister's proposal to sell Housing Trust properties concern the administrative arrangements which underwrite the program. Further, there

was an ambiguity in the Minister's proposal as set out in his speech which does worry me quite a bit, and also the Labor Opposition. My major concern is that the Minister's proposal may end up being nothing but a veiled attempt to flog off public housing in the inner city areas of Canberra - areas like Yarralumla, Red Hill, O'Connor, Turner, Ainslie, Manuka and others.

Mr Collaery: You should be above that, Ellnor. Shame on you.

MRS GRASSBY: You will get a chance, Mr Collaery, to tell us that you are not going to do that. That is what we need to have from you.

Mr Collaery: I have already said it.

MRS GRASSBY: No, we have not heard it as yet. I refer to those areas which will yield large sums when sold because of their higher than average values.

Mr Jensen: Like the ones you sold.

MRS GRASSBY: Mr Speaker, do you think that you could get - I am sorry, I was about to call him Daffy Duck; I must not do that - Mr Jensen to listen to what I have said about selling off two houses? Maybe if he had a brain it would be lonely.

MR SPEAKER: Order, Mrs Grassby, please!

MRS GRASSBY: But maybe he would understand it a bit better. The Housing Trust has hundreds of properties in those suburbs I have just mentioned. Therefore, I do start to worry when the Minister suggests, "An objective is to keep area holdings of public stock constant unless, of course" - and this I wish to make a point of - "these are high". Again, inner Canberra is a high stock area. So what this may potentially allow is for the Minister and his conservative colleagues to flog off high value property in inner Canberra and then spot purchase in outlying areas of Canberra with their relatively low land and house values.

My suspicions were further fuelled when the Minister then said in his speech:

> Properties will be introduced as replacements and into low stock areas through the spot purchase program.

So it may potentially be, "Goodbye Yarralumla and hello Theodore", and, "Goodbye Turner and hello Charnwood". We have nothing against Theodore and Charnwood.

Mr Humphries: Oh, yes. Where do you live?

MRS GRASSBY: I have just made you a Gestapo hat, Colonel Klink. I will present it to you later. The point is that the people who enjoy living in Housing Trust houses in Charnwood and Theodore are fine, but those who wish to live in Yarralumla or Turner should be able to do so. This is where their friends are, where their family grew up, and it is the area they know very well.

Of course, as I said, this is not to suggest that there is anything wrong or unsavoury about living in either Theodore or Charnwood; but the point needs to be made that I, and the Labor Party, will find it totally unacceptable if the Housing Trust, under the Minister's direction, starts selling off well located houses in the inner areas of Canberra and then turns around and spot purchases properties on the outskirts of outlying suburbs. If this is done, then Housing Trust tenants will find themselves in properties with bad access to schools, shops, public transport and other amenities.

I would like to add here that this has not been the intention of the Housing Trust staff that I had anything to do with over my period as Minister. In fact, in my conversations with staff at the Housing Trust they have always agreed that a certain amount of housing in the inner city areas should be kept and that, where we can knock down two or three houses and build five or six townhouses, this should be done.

If we sell off housing in the inner city and put Housing Trust clients further out in the outer suburbs, this will be a retrograde step in housing policy in this Territory. I will not sit back and allow the Minister to talk about his new and progressive housing policy if this is to be carried out. In further arguing this point, I think it needs to be stressed that one of the great things about Canberra is the good social mix we enjoy in our suburbs. As such, except for one or two odd exceptions, Canberra suburbs reflect a well-blended mix of social, economic and other demographic types. Up until now we have never created obviously rich and poor suburbs in this wonderful city of ours, and the social mix which Canberra has enjoyed is something we can all be rightly proud of. I thank the Housing Trust for the hard work that it has done to make sure that this has happened. In every case, the Housing Trust has made sure that people going for a job do not have to be afraid to put down their suburb in case they do not get the job on the basis that the suburb is not considered a good one.

However, if we start to witness a large scale sell-off of Housing Trust properties in the inner Canberra area without repurchasing in this area, then we will be well on our way to creating an obviously wealthy suburban section of Canberra. If this occurs, then we will find this proposal doing something it was not designed to do, and that is to distort the residential housing market in Canberra.

There is another issue related to the sale of Housing Trust properties that must also be mentioned. It is a little unclear at the moment just how many properties the Housing Trust is looking to make available to its tenants. I have heard the figure of 200 thrown around on a few occasions, but I believe that the number of expressions of interest in this program is much more than 200.

I think it needs to be pointed out that there are potentially significant budgetary implications for the Housing Trust if a large number of full rent paying tenants move to buy their homes and the Housing Trust finds itself in the position of housing a largely increased percentage of subsidised tenants. This we do not want to see. We have a healthy Housing Trust that has done a very good job over the years and we would like to see that continue.

Of course, this is dependent on the number of properties the Housing Trust makes available to its tenants, and then in turn on how many of these full rent paying tenants are replaced by subsidised tenants. But the point remains a substantial one which I hope the Minister takes note of. May I also add on this point that, if the scenario I have just mentioned occurs, we will find the Housing Trust becoming a government agency dealing with welfare housing rather than public housing, and this is not what the Housing Trust exists for. Housing trusts in many States have become nothing more than welfare housing agencies. I have always been proud of the fact that the Housing Trust in Canberra has not been just a welfare department. It has been a trust for housing members of the Canberra community.

The administrative arrangements which underwrite the proposals to sell Housing Trust properties have another major flaw which should be highlighted. This is the so-called "lag time" between the sale of current properties and the purchase and/or construction of new properties to maintain the Housing Trust rental stock. As it exists, the lag time between sale and new purchase is going to be at least four months. Moreover, this lag time is going to be greatly increased if the Housing Trust, through the Minister, decides to construct new properties rather than purchase existing properties.

Indeed, if a large-scale construction program is entered into by the Housing Trust, we could find a diminished rental stock for close to 18 months. This all goes to highlight the lack of an effective stock management policy on the part of the Housing Trust - and I do not put this on the Housing Trust. After all, the buck stops with the Minister, and he should realise that. May I suggest to the Minister that what is needed to get over the inevitable lag time problem is for the Housing Trust to implement some sort of forward estimation system with its stock. Such a system would allow the Housing Trust to estimate housing demands based on demographic projections and other information. Along these lines, it would be good for the Housing Trust to take note of the policy direction outlined

in the background and issues papers recently released by the national housing strategy. With the implementation of such a system, the Housing Trust would also be able to enter into a well-balanced construction program to build smaller townhouse-type accommodation which is currently in demand.

As it exists, there is an obvious abundance of traditional three- or four-bedroom houses within the Housing Trust stock. But, on the other hand, there is a lack of smaller sized accommodation, which reflects the current demand for one- or two-bedroom units, and also townhouses. *(Extension of time granted)*

If such a scheme were adopted by the Housing Trust - instead of it looking at an area such as Campbell and saying something like, "Okay, we can buy 20 properties here, so we can therefore sell 20 to our current tenants" - the Housing Trust could look at that area and say, "Let us buy some run-down properties, knock them down and build smaller, more cost efficient, energy efficient and environmentally friendly townhouses in this area". If this option were adopted, instead of selling 20 traditional three-bedroom houses to tenants and then buying 20 ready constructed traditional three-bedroom houses, the Housing Trust could replace its rental stock with more desirable accommodation which is currently in demand. Moreover, in switching from traditional quarter-acre blocks to townhouses, there exists the potential to increase the number of Housing Trust tenants in the inner city area. This, of course, would help to maintain a positive social mix in the central Canberra area, which is something we should strive for.

The Labor Opposition does not completely criticise the Minister for this plan that he has brought down. As I said earlier in my speech, we welcome the idea that Housing Trust people will be able to buy their houses. But, like many organisations around Canberra who are dealing with Housing Trust people from day to day, we will be watching very carefully what the Minister does. The Labor Opposition would like to commend the Housing Trust on the very good work that it has done in the past, is doing now and, I am quite sure, will do in the future.

Unfortunately, the Housing Trust does not have the last say. As I said earlier in this speech, the Minister is the man who makes the decision. What I am saying in this speech is that we are watching, Mr Minister, and we will be keeping an eye not on the Housing Trust but on you. As you said earlier, where I am, there is always trouble. They do not call me Red Adair Grassby for nothing, Mr Minister.

MR HUMPHRIES (Minister for Health, Education and the Arts) (4.18): I was not going to speak on this matter, but - - -

Mrs Grassby: "I just cannot help it".

MR HUMPHRIES: Absolutely, I cannot help it. I must comment on Mrs Grassby's fine creativity.

Mr Collaery: Put it on, Gary.

MR HUMPHRIES: No, I am not going to put it on. For the *Hansard* record, Mrs Grassby has handed me a paper hat, which she has obviously carefully crafted whilst sitting here, no doubt listening to one of her colleagues speak on some matter. I will take that back and treasure it, Mrs Grassby, until my dying day.

Dr Kinloch: To the Ministry of Arts, Minister.

MR HUMPHRIES: Yes, perhaps to there; but perhaps not, Dr Kinloch. Mr Temporary Deputy Speaker, I note the comments made by Mrs Grassby, but I still detect more bile in her comments than supportive remarks.

Mrs Grassby: We just do not trust you, Gary; let us be honest.

MR HUMPHRIES: That is what it boils down to; Mrs Grassby says that she does not trust us. Of course, she has also said, very clearly, that she wants to commend the good work of the Housing Trust in this area. I am sure the Minister would be the first to acknowledge that the Housing Trust has worked enthusiastically on the package that he announced a few weeks ago in this place, and is very enthusiastic about the prospects of success for this package. If I were a member of the Housing Trust I am sure I would see the great potential this package has to provide for a much fairer and more dynamic array and provision of public housing in the ACT.

The objectives outlined in this paper are ones that nobody could fail to support. I hope that the support that Mrs Grassby professes to give to this package overall will be conveyed publicly to the media rather than the carping criticism which unfortunately has characterised Labor's comments on this package to date. The fact is that there is far more to praise in this package than Mrs Grassby is prepared to say publicly, even though she says it, in effect, in this place.

This is a very important package. This is widely seen, I am sure, by people who rent premises from the public housing stock as an important objective and an important hope for them. It gives them the capacity, in due course, to own their own homes. And, irrespective of what Mrs

Grassby might say about it being important for there to be a large public landowner in the Territory, everybody, I am convinced, ultimately would like to own their own home, and that is what this package allows them to do. It is, I think, anathema to lock people unnecessarily into public housing where they would like to leave it. I think this package provides the opportunity to put before people in that position the further option that they might eventually own their own homes.

Mrs Grassby also curiously stated that there was a problem if non-subsidised tenants buy out, or, in other words, leave the public housing stock by buying their own homes - that is, their own previously publicly owned homes - and thereby leave a higher proportion of subsidised tenants of the Housing Trust. Obviously there is a problem of mix there and having the trust deal with a range of people within the terms of its charter. But she also said, quite clearly, as I recall - she might correct me on this - that there would be a problem with cost blow-out if public housing tenants were to be constituted primarily or wholly of subsidised tenants. I am at a loss as to how that could occur. Perhaps Mrs Grassby at some stage could explain how it could occur.

Presumably, if people who are non-subsidised leave the housing market and take their houses with them when they go, there can be no additional cost flowing on to the Housing Trust at all. In fact, if public housing is provided at some cost to the Territory, whether it is subsidised or not, presumably any tenant that leaves it provides some windfall to the Territory. So I am quite at a loss to understand what Mrs Grassby meant by that and I would be very anxious to hear her explain what that means.

I welcome this initiative. It is a very valuable and very well received initiative on the part of the Government. I know that those opposite resent anything that we do that has the potential to win votes, and I am completely convinced that this package has just that potential.

Mrs Nolan: There have already been 53 applications since 2 April.

MR HUMPHRIES: I am told by my colleague Mrs Nolan that, in fact, there have already been 53 applications in the last few weeks under this scheme, and that indicates to me very clearly that people will vote with their feet for the proposals outlined in this package.

MR COLLAERY (Attorney-General and Minister for Housing and Community Services) (4.23), in reply: Yes, we did have 53 applications up to last week, but we have had a sort of a rush of applications - it is up to 70 now. I guess that is because I think someone in the local Labor Party said - unwisely, of course - that they might be in government next time round. People were flocking to secure their homes before the great WA Inc. thing spreads over from the west.

The speech that was given in tabling the details of this historic reform is on the record. It answers most of what Mrs Grassby said. Basically Mrs Grassby, in the extensive criticisms she has offered, does not in any way contradict the assertions mentioned. Let me isolate one issue, for example. The fact is that we have, effectively, on the record 94 expressions of interest. And, in fact, we have 70 definite proposals to purchase from our public tenants. The break-up of those applications, I am advised, shows them coming from all over Canberra; it is not concentrated necessarily in the inner city area. That is because, probably, people might find it hard to raise the sort of finance required to buy the inner city places that they inhabit.

That initiative enables the social justice of allowing 100 or more people to get off the waiting list for public housing. And, more to the point, that waiting list, as Mrs Grassby well knows, is disproportionately weighted against some singles and some supporting parents who require a type of dwelling that we do not have sufficient stocks of at the moment. Of course, that reflects the earlier social settings of this city, whereby we built so many detached cottages. That is not what the many people in that category want these days. So the other good thing about freeing up our stock, under a thought out and well-prepared stock management strategy, which we have, is to ensure that we can attend to the changed demographic profile of our public housing waiting list; that we can more quickly respond to differing housing needs in the 1990s.

No-one can say that these programs have not been well received by the community. Whilst Mrs Grassby has a valid point, only in saying that we need to have a good stock management strategy, I think she did a disservice to the department she formerly led by suggesting that we would launch into this type of enterprise without knowing where we are going. She well knows that it has been a long time in development. It is a carefully thought out prospect for the people of the Territory.

The income limits were revised further this week - I am not sure whether Mrs Grassby knows this - to take account of the last base CPI adjustments. I believe that the Alliance Government has taken a leaf out of the social justice text book, which has largely disappeared and gone into the archives around this country.

Mr Kaine: We call it social equity.

MR COLLAERY: "Social equity", my colleague Mr Kaine calls it. We all have our different terms. What it means is a fair go and equitable treatment. That is what we are doing while Labor retreats from that concept all over this country. All they can hang their hats on, Mr Temporary Deputy Speaker - and you cannot answer, I regret to say, Mr Temporary Deputy Speaker - is the schools and hospital issues. They never leave off on that, because they cannot find anything in our administration that gives them any other form of a public sally at us.

Additionally, this HomeBuyer program has been welcomed by working groups and tradesmen who, as we well know, are so sorely affected by the business and construction downturn. Mrs Grassby said that if our trust was engaged in a big construction program inevitably there would be a delay while we match the disposed-of homes. Mrs Grassby knows that the nature of things at the moment is, given the market, that spot purchasing is the preferred style, wherever we can find the configurations that suit the demographic profile of our housing list. We are not doing a lot of construction at the moment, but we are looking to spot purchasing, and we are, of course, purchasing newly constructed properties.

We are also prepared to enter statements and expressions of interest and notices of intent, so that constructors may have some assurance that we will purchase from them after construction. So that is all going on. It is another effective, properly balanced program that broadly benefits the community at large - not just those public housing tenants and not just those people waiting on the public housing list, who now have a glimmer of hope, but those 3,000 or more units waiting to be housed in the community.

The community well knows that that housing list has been an aspect of public housing in this Territory for longer than our term of government and for longer than that of the Follett-Whalan Government. It reflects the growing nature of Canberra as the centre of the region, and it also reflects the fact that people with qualifying periods of residence in the ACT are securing public housing.

We are, in fact, providing a very significant social support mechanism for this region of Australia. That is not widely perceived, and that is a comment that I have often made in New South Wales fora and to New South Wales Ministers. We are providing for needs, particularly in respect of supporting parent and single accommodation, that are not being met in some of the New South Wales rural areas. That is known, and that requires a qualifying period. It also requires some deep thought on our part, and eventually by our Treasury, as to whether we are going to get any response, in overall Federal funding schemes, to the indirect support we are giving interstate in those areas. That is a matter, of course, for the Treasurer.

Debate interrupted.

ADJOURNMENT

MR SPEAKER: Order, Mr Collaery! It being 4.30 pm, I propose the question:

That the Assembly do now adjourn.

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

Question resolved in the negative.

HOME PURCHASE ASSISTANCE ARRANGEMENTS
Ministerial Statement and Paper

Consideration resumed.

Question resolved in the affirmative.

ADJOURNMENT

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

That the Assembly do now adjourn.

Assembly adjourned at 4.32 pm