DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

18 September 1991

Wednesday, 18 September 1991

Wednesday, 18 September 1991

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

PETITIONS

The Clerk: The following petitions have been lodged for presentation, and copies will be referred to the appropriate Minister:

Land Tax

TO THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly: that

1. The ACT Government has announced its intention to levy a land tax of one per cent of the unimproved value of rented residential properties with effect from 1 August 1991.

2. This land tax will have serious consequences for investment purchasing in the housing industry at a time when the ACT rental market is experiencing a chronic shortage of rental stock.

3. This new residential land tax will undoubtedly have serious repercussions on tenants in that it will increase rents in the ACT.

4. The land tax would also affect the many "involuntary" landlords in the ACT, who have to rent their homes because of interstate and overseas postings.

5. Any disincentive to investment would also deal the ACT housing and construction industry a serious blow, and hinder the ACT's economic recovery and employment generation, especially for our young people.

6. The fallout effects of the new residential land tax will put more pressure on the ACT Housing Trust to provide additional rental accommodation in the ACT, at a time when their average waiting period exceeds two years.

Your petitioners therefore request the Assembly to:

REJECT ANY LEGISLATION TO LEVY A 1% TAX ON THE UNIMPROVED VALUE OF RENTED RESIDENTIAL PROPERTIES.

By **Mr Moore** (from 109 residents), **Mrs Grassby** (from 100 residents), **Mr Collaery** (from 103 residents), **Mr Duby** (from 105 residents), and **Mr Stefaniak** (from 131 residents).

Petitions received.

PAPER

MRS NOLAN: I ask leave to present a petition which does not conform with standing orders, as it does not contain a request.

Leave granted.

MRS NOLAN: Mr Speaker, I present an out-of-order petition from 225 residents opposing the proposal to close the two remaining agistment paddocks within the confines of Hall village.

PUBLICATIONS CONTROL (AMENDMENT) BILL 1991

Debate resumed from 11 September 1991, on motion by **Mr Stevenson**:

That this Bill be agreed to in principle**.**

DR KINLOCH (10.32): I want to say very little. In some ways, it would be helpful for many of us if we could say, "Please look at previous *Hansards"*. I want to sum up quickly a point of view I have. There are six States in Australia with legislation that imposes bans and restrictions on certain categories of films - films that are described as X-rated or pornographic films. My strongest feeling is that it is not for the ACT to be a legislative entity which violates the laws of six States, especially as we are the legislature within the national capital of the national capital. Whatever we may think of the legislation of those States, we ought not, especially as we live in the middle of one of them - New South Wales - to be in a position day by day of violating that legislation. That is one major area of concern I have.

The second is this: Several years ago, the national Parliament had a committee on the matter of pornography which produced two fat volumes of very detailed material. The Federal Parliament has yet to act on that material.

However, there are intimations of possible law reforms in the near future, which I would want to see at a Federal level. I would want to see what is done federally about film classification, classification of pornography, not for the ACT Legislative Assembly to impose itself upon the whole system around the country. I welcome that possibility of law reform and a more careful look at classification.

The third matter is the question of pornography itself, and here one could say a great deal. I do not see this as an issue of civil liberties. I speak with a long concern about civil liberties over my entire life, and I do not believe that we are here debating that matter. I do not think we are hurting anyone's civil liberties by supporting the Bill before us. What I believe to be crucial on the matter of civil liberties is freedom of religion, freedom of assembly and freedom of speech in the sense of opinions of all kinds being openly expressed - and people certainly can openly express their views on pornography. But I do not believe that we should be in the business of supporting a sleaze industry at a time when six other States of Australia have laws against it and we are violating those laws.

MR KAINE (Leader of the Opposition) (10.35): Mr Speaker, I will be brief. I support Mr Stevenson's Bill, but not for the reasons Dr Kinloch has put forward. I do not think it is at all relevant to me in the ACT what the laws are elsewhere, and I would assert that we are not violating anybody's laws by the state of our law in the ACT. One could say, on experience, that it is counterproductive to have a law banning this material. I will guarantee that you can go to any State capital in Australia and find this material which, according to the law, is banned. It is untrue to say that it all comes from the ACT. It does not all come from the ACT. So, Dr Kinloch's argument, I believe, is an invalid one.

I support Mr Stevenson's Bill because I think there is sufficient evidence to demonstrate that this material is harmful. It is a little like drugs and other undesirable material. It can be demonstrated quite easily that it is harmful to some people in the community who are susceptible to it. That is not to say that it is harmful to everybody; I am not arguing that. I believe that this material adds nothing to the quality of our society, and, if it cannot claim that, then where is its merit?

I hate to intrude dirty words into this debate, but it is like fluoride. There is wide public opinion about fluoride. Some support it; some do not support it. But in the end this legislature took a view on it, and it is entitled to do the same about this pernicious material that is contained in X-rated films. My only argument is that Mr Stevenson's proposal does not go far enough, because there is material that is not X-rated that is violent, material that, like X-rated material, adds nothing to the standard of living and the values in this community.

It is incumbent upon this Assembly to consider the impact of this material. Since we could not ban it when we were in government, we adopted a taxation policy. That has failed. It does not even curtail it, and it has added nothing, in practical terms, to the revenues of the Territory. So, we have to look at another remedy, and I believe that Mr Stevenson's approach is the right one - and I do this with reservations.

I know that people in this chamber are going to argue that it is an infringement of civil rights, that it is censorship, and that those things are bad. Yes, they are; but there are two sides to any argument about freedom and licence. In this case, I believe that the material is harmful to some members in our society. It adds nothing to the values of our society. It is true that it is banned in the six States, although I believe ineffectively. I am not certain that our own legislation when it is put into place - and sooner or later it will be; if not today, then at some other time - is going to be any more effective than the legislation in the States in suppressing this material. But to do nothing is an admission of failure which we as elected representatives of this community should not accept.

I will be supporting, as I have done consistently, Mr Stevenson's position on this matter. It just so happens that Liberal Party policy adopts that position also; but I am trying to make the point that, irrespective of Liberal Party policy, I have my own personal opinion, based on a lifetime's experience. Some of that experience in the military and elsewhere has been pretty rough experience. I am convinced that this material has no social value, and therefore we should do what we can to eliminate it.

MR STEFANIAK (10.40): Following what the Leader of the Opposition said, I think it is appropriate to read the Liberal Party policy. This policy has remained the same since 1988; it was looked at again in 1990 and did not change. In relation to video classifications the policy states:

> The ACT Liberal Party believes that the sale, distribution and exhibition of X-rated and excessively violent material in the ACT is undesirable.
>
> Consequently, a future ACT Liberal Government will bring the ACT into line with all States by banning the sale, distribution and exhibition of X-rated video and film material in the ACT, and will review the film and video classifications so that excessively violent material is banned.

Mr Kaine indicated that X-rated videos are harmful to some members in our society. I had one personal experience as a prosecutor, where X-rated videos were used by a defendant who was convicted of incest on his then 15-year-old daughter, although the incest had been continuing for some two years. Certainly, that was an instance where X-rated videos were quite wrongly used by a member of society.

I would also like to talk briefly about the last part of the Liberal Party policy relating to excessively violent material. Dr Kinloch mentioned film classifications. I have also had a fair amount of experience in relation to persons who have been badly affected by excessively violent films. In terms of what has come before the courts in the ACT, there are a lot more instances of persons being affected by excessively violent films than one finds in relation to X-rated videos, although I do stress that incest case, because that was a clear case of X-rated videos. I was involved in a couple of cases where persons actually ran amuck after watching excessively violent videos. I think it is important for the Commonwealth, and indeed for all States, to review film classifications and also to ban excessively violent films.

MR BERRY (Minister for Health and Minister for Sport) (10.42): I rise to speak on this issue out of a deep concern for the motives with which Mr Stevenson has chosen to move this legislation. In examining whether or not we support this legislation, we also have to examine what Mr Stevenson's position has been in relation to issues he has chosen to run. We have heard about fluoride and guns and voters' veto and surveying community attitudes and pornographic violence, all of which have nothing to do with X-rated videos, I have to say. We know that the X-rating is applied somewhere else, and it is not about pornographic violence, it is about X-rated films.

We get some hints of where Mr Stevenson is coming from from his attacks on members of the Jewish community, under parliamentary privilege and under the guise of a debate on pornographic violence. We have heard some opposition to the United Nations, particularly in relation to the United Nations Convention on the Rights of the Child. That raises heaps of questions, in my view, about the position Mr Stevenson has taken. For example, a matter of some significant concern to me, and I would like him to address it, is where he stands on the six million Jews who died in the Holocaust. Did it happen? What does he do when he is in the deep north of Queensland? Is he crusading on X-rated videos? Is he campaigning to ensure that this sort of legislation has the endorsement of people in Queensland?

These are the sorts of things we have to examine when we consider what we do with legislation proposed by Mr Stevenson. We have to ask ourselves the question: How genuine is his approach? I do not think it is genuine at all. This is not about all the things Mr Stevenson says in

relation to X-rated films; it is about Mr Stevenson's political position in relation to a whole range of issues that would be of concern to most of the Canberra electorate.

Some of the links that I think have become known are of concern. Does the League of Rights support Mr Stevenson's stand on the Publications Control (Amendment) Bill? Does Mr Stevenson support the League of Rights? Does he support their objectives? Does he help them publish their magazine? Has he any financial connections with them? These are all questions that I think we need to have out in the open in relation to this Bill. What are his links with the Logos Foundation? Is he still a member of the White Aryan Resistance? What are his links with the Anti-Treason Coordinate?

MR SPEAKER: Order! Mr Berry, I think you are drawing a long bow as far as this debate is concerned.

MR BERRY: This is very interesting stuff. None of this is illegal, and I am not suggesting that anything Mr Stevenson is doing is illegal. What annoys me most is that Mr Stevenson comes along here and takes the high moral ground on this sort of legislation when all of these connections are yet unanswered. I for one want them answered, and I think this Assembly needs to have them answered in the course of this debate. The Canberra community and the people Mr Stevenson has pulled in behind him on this issue deserve to know where he is coming from politically. This is an extremely important issue for the people of the ACT.

I turn to what Dr Kinloch said in relation to this Bill. It was just a little while ago that Dr Kinloch supported the Film Classification (Amendment) Bill. That Bill would allow pornographic violence to be shown in the ACT at a film festival.

Dr Kinloch: I have never been to a film festival where pornographic films were shown.

MR BERRY: So, it is art if Dr Kinloch watches it; it is pornographic violence if anybody else does.

Dr Kinloch: That is a shameful argument.

MR BERRY: It is shameful, but it hit a sore point. Shameful, my foot. This is about attacking the issue which goes to civil rights on this Publications Control (Amendment) Bill. What Dr Kinloch is about is cutting off the liberty of our residents to view and read what they like. After all, the import of this material is permitted at the Federal level. It is quite legal. What we are doing, for political reasons, is adopting the wowserish high moral ground to draw in a few voters out there in the community who might vote for people like Dr Kinloch if they do not see through him on this subject.

This is about limiting the rights of the ordinary person in the community. The Labor Party will not stand for that, nor will we stand for the sorts of links that have been suggested by Mr Stefaniak. For Mr Stefaniak to suggest that incest is in some way related to pornographic or X-rated videos is quite wrong. Incest has been around a lot longer than films.

Mr Stefaniak: I mentioned one case that I did. I was just giving examples, that is all.

MR BERRY: That is right. Why mention one case? Incest has been around a lot longer than celluloid. For you to draw those links is quite wrong.

Mr Stefaniak: And violence has been around a lot longer than violent videos, too.

MR BERRY: Indeed it has. I do not see that by drawing those links you help the quality of the debate much. This is clearly an issue about the rights of the ACT community to watch videos that are entirely legal in this country. They have been imported into this country in accordance with the law. People in this Assembly are trying to create new political standards, dare I say it, for crass political reasons. This debate has been shamed by the refusal of members to accept that these videos are in the country quite legally and they ought to be available to people in the ACT who want to watch them.

MR HUMPHRIES (10.50): It is not necessary to make any long contribution to this debate, since innumerable contributions have already been made previously by every member of the Assembly. However, I rise to support my colleagues and the position the Liberal Party has consistently taken on X-rated videos since the beginning of this Assembly and which we take again today, that is, to support the banning of X-rated videos, in line with the decision made by other States.

The arguments we have heard are the same arguments we have heard before. The argument Mr Berry has put about limiting the rights of ordinary citizens in the Territory to view what they wish is a matter that perplexes me to some extent as a small "l" liberal, as one who respects the right of people to do as they wish, free of interference by government. Clearly, we have to examine very carefully any proposal which purports to limit the rights of citizens to do particular things.

One might assume, at first blush, that viewing pornographic videos in the privacy of one's home is just such a right; but we need to go beyond the mere act of looking at videos to the context in which that occurs, to see whether it is a right that affects only those who pick up the videos and put them in the video machines and look at them in the privacy of their own homes.

I believe that you have to modify any proposal that people do as they wish within the privacy of their own homes by the principle that people's right to do those things should affect nobody else. My concern particularly is about the impact of X-rated videos on children.

Mr Berry: But it is illegal.

MR HUMPHRIES: It may well be illegal; but it does not stop the fact that there is direct and consistent evidence of involvement by young people, by children, sometimes very young children, in X-rated videos.

The South Australian Council for Children's Film and Television conducted a study which found that many young people under the age of 18 are gaining regular access to explicit material in the form of R-rated and X-rated videos. The evidence does not come from a crackpot organisation; it comes from a reputable organisation in this area. The evidence is clear, and it need not be surprising to anybody who has children or who has a video machine. How old does a child need to be to pick up a video and operate it, in today's world? I have seen children of three or four years of age operate video machines.

Mr Jensen: I can't.

MR HUMPHRIES: That says something about members who have spoken, but I will not draw that point out. The fact is that if videos are freely available, if they are available in places where children may have access to them - I am talking particularly of some people's homes; regrettably, that is true - it is quite possible for children to pick up those videos and view them.

Unlike, for example, picking up a bottle of whisky - I think Mrs Grassby made some reference to drinking being a problem as well - viewing a single explicit pornographic video may do permanent damage to a child which might not occur by consuming half a bottle of whisky. I am obviously concerned that we do not make this debate one about wowserism. I am not a wowser.

Mr Moore: That is exactly what it is.

MR HUMPHRIES: That is what those opposite are saying - that it is a debate by wowsers. I do not accept that. It is not a debate about censorship, because everybody in this chamber agrees with censorship. Every one of us censors and supports censorship of something. I have not seen any evidence on the part of this Government that they would support the legalisation of violent erotica, for example, or child pornography or bestiality or whatever. Those things are, under the regime proposed and supported by this Government, to be censored.

If they are to be censored, the argument becomes not whether we censor but what we censor, where we draw the line. The argument by my party and by some of us on this side of the chamber is that that line should be drawn on the other side of X-rated videos. As Mr Kaine has indicated, those videos are not contributing anything to the quality of our society, and I believe that the evidence is very clear that they damage the quality and the fabric of our society. I for one have no hesitation in supporting this Bill to make X-rated videos illegal in this Territory, as they are in the States.

Mr Berry, as usual, has been playing the man rather than the issue. I am obviously concerned about the connections he has drawn and the connections that might exist. I certainly view with concern some of the things I have seen Mr Stevenson associated with, but I do not think they make any impression on the argument in this case. I do not believe that, merely because one might hold extreme political views, that makes one's views on everything necessarily invalid. In this case I believe that Mr Stevenson's views on the banning of X-rated videos are valid.

I have to say, though, on the other side of the coin, that Mr Stevenson's handling of this issue has been less than helpful over the last week. The claim I understand he made that debate on this Bill had to be adjourned last Wednesday morning because, to his surprise, Mrs Nolan was not present in the chamber is a rather unfortunate one. Mr Stevenson shakes his head, but he did tell me last Wednesday that he was not expecting Mrs Nolan to be away. Mr Stevenson knew that well before last week and ought not to have come into the chamber expressing surprise.

I do not much mind; it was embarrassing for this Assembly to have to adjourn that debate on the Bill and it should have been embarrassing to Mr Stevenson to have to send away many people who had come to the chamber to support him - basically, because he had stuffed it up, to put it frankly. Nonetheless, this Bill has now come before the chamber today. It will be voted on today for the last time in the life of this Assembly. I hope Mr Stevenson has done his homework on the numbers, but that remains to be seen.

I hope this debate does not recur unless the context of it changes dramatically. Certainly, I hope the matter can be settled today. Clearly, as far as my party is concerned and as far as I personally am concerned, we would very much like to see the legislation passed and become the law of the Territory.

MR JENSEN (10.57): The last time I spoke on this issue, like my colleague Dr Kinloch I put a set of views, and in the interim I have seen nothing that would encourage me to change those views. I propose to support the idea that is being put forward by this Bill. As I said the last time, when people were talking about jumping on buses and joining

buses with Mr Stevenson, I know which bus I am on, and it is certainly not the bus Mr Stevenson is running on most of the issues. However, on this issue I happen to be prepared to support the Bill.

Many of the people in the congregation of which I am a member have encouraged me to continue to support this move to remove what is, on the admission of the X-rated film industry, material that has no artistic merit whatsoever.

Mr Moore: That is a value judgment.

MR JENSEN: That is their judgment, Mr Moore. They have admitted to me that the majority of the material in the X-rated category that is available in the ACT has no artistic merit whatsoever.

Mr Berry: Have you watched them?

MR JENSEN: Yes, I have seen them. That is why I believe that it is appropriate for them to be banned. Maybe if you had had a look at them, you might have a similar view. Mr Berry today has implied that the sorts of people I talk to regularly are wowsers. I can assure you, Mr Speaker, that they are not wowsers, and they would be deeply offended by that term. They are people who are concerned about access to this material by people within our community, particularly the younger groups.

Once again, Mr Berry has been very selective in some of his comments. He referred to censorship. On the one hand he said - I heard him say it, and I am sure the *Hansard* will bear me out - that we should be able to watch what we want to. However, Mr Berry knows full well that there is material that has not been given a rating by the Commonwealth Chief Censor. It has, in fact, been censored. It is banned.

There is also material the Commonwealth Censor looks at and gives a rating indicating that it is not suitable for children under 15 years. That is a form of censorship. So, on the one hand Mr Berry is saying that we should not have censorship, and on the other hand he is accepting the fact that there is a form of censorship.

Mr Duby: No, he is not.

MR JENSEN: That is a form of censorship. He did say that we should be able to watch what we want to. Mr Berry knows full well that that is not possible, for a number of reasons.

Like his comments on censorship, Mr Berry's comments on film festivals have been very selective. He made his statement in relation to my colleague Dr Kinloch, but nowhere in his speech did I hear him offer any proof to back up his allegation that such activity took place. Mr Berry is once again being very selective. He is the master

of the half-truth, of telling half the story. Mr Berry is very good at that, and that is what we have seen once again this morning, with some very selective quoting. There were no concrete examples of the point he tried to make. It is a cheap debating trick which would probably have been laughed out of court in any debate at high school level.

Let me now turn to a related issue, and I am now talking about the R-rated material that is readily available in our video stores. I am concerned about some of the gratuitous violence that is available in our society. In some respects it could be argued that that sort of material is probably just as, if not more, damaging to our society. There is sufficient evidence, I believe, to indicate that people who watch violent movies often participate in violent acts against other people in the community. As far as I am aware, in the recent tragedy in Sydney the gentleman involved was not into pornographic movies, as has been suggested by some, but he was an advocate of very violent movies. That is the sort of thing I am talking about, and that is why we have to look very carefully at that issue.

The Rally has called on a number of occasions for the Commonwealth Chief Censor to do his job and relook at the whole category of R-rated movies and other material with a view to making some distinction between violent material and material that just contains foul language, for example, or implied sexual acts without the sort of activity that we see fully portrayed in X-rated movies.

Ms Follett: Speak for yourself.

MR JENSEN: Ms Follett, I am not quite sure what you mean by "Speak for yourself". You seem to be suggesting that it is okay to watch that sort of stuff.

Ms Follett: All I am saying is that you said that you were seeing it. I have not watched it.

MR JENSEN: Maybe that is one of the problems. Maybe if you had watched it, you would change your view. There is not much point in being a legislator and coming into this place and voting on an issue when you have not looked at the material people are talking about. How narrow-minded can you get? Have a look at it. See what you are talking about before you make judgments, which is what we have across the table from us here today.

It is on that basis that we see once again the hypocrisy of the group opposite in that they are prepared to indicate that, by the nature of our society, there will be some need for censorship, but only when it suits them. They are not prepared even to look at the material we are talking about today.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (11.06): One argument needs to be laid to rest at the outset of this debate, and that is the suggestion that the Labor Party, in not supporting Mr Stevenson's proposal, is in some way accepting that X-rated videos condone violence against women. If the Labor Party thought for one moment that banning X-rated videos would lead to a reduction in sexual violence offered against women in this society or anywhere in Australia, we would be supportive of the ban. In opposition and in government we have been incredibly supportive of measures such as the ACT's innovative domestic violence measures. In opposition and in government we have given full support to stringent laws against guns.

I find it extraordinarily indecent that this man who poses on X-rated videos is the man who says that people have a constitutional right to bear arms, to carry guns, who urges the community to disregard the ACT weapons laws, who urges people in the community to flout the law and run around and arm themselves. This man who is claiming that he is acting in the interests of reducing violence in the community is the same man who runs around urging people to arm themselves, who urges people to disregard the law of the ACT because he says it is unconstitutional. What a farce, and people know that it is a farce.

It is extraordinary that Mr Stevenson can urge a ban on video material while at the same time supporting and encouraging the use of weapons, even to the point of encouraging people to violate the laws of this Territory. It is extraordinary and shameful behaviour by this opportunistic politician. If there was evidence to support the view that a ban on X-rated videos would lead to a reduction in violence against women, the Labor Party would support it. This is not the issue, because the evidence simply is not there.

A couple of other points need to be made about matters that were addressed in the debate. Dr Kinloch talked some nonsense about the ACT violating the laws of the six States by allowing the sale of X-rated videos. I must say that Mr Kaine, to his credit, clarified the position on that. Of course the ACT does not violate the laws of the six States. The States, if they wished to, could ban or make illegal the possession of X-rated video material, but not one State has chosen to do so.

The States are quite prepared, hypocritically I would say, piously to ban the sale and yet allow the possession, circulation and publication of magazines in their jurisdictions which are full of ads for X-rated videos. If you look at some of the popular pictorial magazines that are published in Sydney or Melbourne - *Truth*, *Picture*, *Australasian Post* or *People* - the back half of the magazine is virtually full of ads for X-rated videos from the ACT. The States are not prepared to do anything about that.

Even more insidiously, and this is a real cause of concern, creeping into those magazines now are ads about where you can get X-rated material in Sydney and Melbourne. The States where the ban on sale applies are the States where unclassified material is available. By forcing this stuff underground we are getting material in circulation which is extraordinarily damaging.

Mr Jensen in his diatribe seemed to suggest that the Labor Party takes a position that there should never ever be any censorship. That, of course, is nonsense. The view of the Labor Party, which Mr Berry was expressing and which I certainly share, as do other members here, is essentially the view of John Stuart Mill, and I would have thought Mr Humphries would be supportive of it. That is that an individual has the maximum degree of freedom until the point at which his freedom hurts another. The Commonwealth censorship laws have banned material that involves bestiality and child pornography.

Ms Follett: And violence.

MR CONNOLLY: As Ms Follett stresses, and I should have stressed it at the outset, violent sexual behaviour is banned. The material that has been allowed by the Commonwealth is specifically non-violent material. The material that is circulating widely in Sydney, Melbourne and other capital cities, where the States piously ban sale but allow possession and encourage advertising material to float around, is far worse. It is the unclassified material, the unlawful, illegal material, and that is an appalling situation. Censorship applies to draw a line. The line having been drawn by the Commonwealth censors, we see no reason to jump opportunistically into a political ban on that material.

Mr Berry's comments on film festivals were also twisted and distorted by Mr Jensen in his remarks. What Mr Berry said is essentially true and unarguable. If a person takes their clothes off and performs certain functions with another person with their clothes off, the question of when that becomes art and when it becomes pornography is really in the eye of the beholder. In the American Supreme Court, in one of the landmark censorship cases in the 1960s, a judge was heard to say, "I cannot define pornography, but I know it when I see it". That is the problem here. How can we define pornography?

In the text of Mr Stevenson's Bill, he would ban material which is either an X-rated film, or which, not being an X-rated film, "describes, depicts, expresses or otherwise deals with matters of sex ... in a manner that is likely to cause offence to a reasonable adult". It is almost notorious that films displayed at film festivals will often lead to vocal protest from community groups, who no doubt consider themselves to be reasonable adults and who claim to be offended by depictions of sex or sexuality in those

films. We have just said, as an Assembly, that we think it is sensible that those types of films be allowed to be shown when unclassified, provided they have gone through the New South Wales system. So, Mr Stevenson's ban here would potentially catch those films.

It really is in the eye of the beholder, and Mr Berry's remarks were quite apposite. Dr Kinloch took great exception to that, and he said, "I do not see pornography at a film festival". No doubt Dr Kinloch is absolutely sincere in saying that, because what he sees at a film festival, as a noted critic of films and someone who has probably seen more films than the rest of us put together, he does not see as pornography.

Mr Duby: There is bound to be someone who does.

MR CONNOLLY: As Mr Duby says, there is bound to be someone who would see that as pornography. So, it is a very difficult line to get involved in, and one that Territory-or State-level assemblies would do well to keep out of. Of course, as Mr Berry so eloquently showed, the agenda here is often not what it seems. Mr Stevenson has seized upon the pornography debate as his crusade for the next election, or beyond. The extraordinary double standard of a person who bears the placard of protecting women from violence through banning X-rated videos, yet encourages greater circulation of firearms and encourages persons to break the law in respect of firearms, is breathtaking and ought to be rejected by all members.

The essential point for the Labor Party, which is maintaining, as Mr Berry said, an adult's right to see material that has been through the lawful procedures of the Commonwealth Film Censorship Board, must be tempered with the comment that, if we thought for a moment that by banning material we would protect women against violence, we would be in it; but the evidence just is not there.

The double standard of the ban at the State level, where this material is allowed to be possessed and where there seems to be a remarkable laxness in enforcement of the sale ban, is leading to very offensive and disturbing material - material which has been refused classification or which has not been through the Commonwealth classification system - getting out into the community. I would have thought that, for persons genuinely concerned about material circulating in the community, that would be far more disturbing than the lawful and strictly regulated sale of material in this Territory.

MS MAHER (11.15): I have spoken on this issue before. The Assembly has had to deal with this issue because the Commonwealth, when it had the responsibility to administer the Territory, did nothing. The ACT Legislative Assembly inherited this situation at the time of self-government in May 1989. I have never heard one Commonwealth politician or one Commonwealth official concede that the Commonwealth

could have framed its legislation prior to ACT self-government so that the ACT was in the same position as the States, where X-rated videos were banned. I am not a lawyer, but it seems to me that the Commonwealth, if it wanted to, could still pass legislation to override local laws and thus ban X-rated videos.

As a member of this Assembly, I resent being placed in a situation where, along with my colleagues, I must wear what appears to be sole responsibility for accountability to those throughout Australia who profess moral outrage over X-rated videos. The Commonwealth seems strangely silent on the issue and the States seem to think that it is sufficient just to ban the sale and distribution of X-rated videos, while still allowing possession of the material, as well as advertising of the videos in their own metropolitan newspapers. I do not care for X-rated videos myself and I care less for hypocrisy.

In my previous speeches on this subject I have indicated that a greater concern for all of us should be the violence against women displayed in the R-rated classification. Our first priority should be to address violence against the vulnerable. In my speech on 5 June 1990 in support of the Alliance Government's regulatory measures on X-rated videos, I drew attention to the matter of a pictorial display on a record cover printed insert and a T-shirt. The display portrayed a young woman slumped against a fence, with her clothing almost removed, traces of blood on her exposed breast, and an appearance which in my opinion suggested assault.

This item was referred to the Commonwealth Chief Censor, who ruled that the printed record insert was unrestricted. This means that the item could be publicly displayed and sold to minors. The Commonwealth censor declined to classify the T-shirt as a publication. The ACT Law Office appealed against the censor's ruling to the Film and Literature Board of Review, which overturned the censor's classification and reclassified the printed record cover insert as Restricted - Category 1. The T-shirt, with a similar pictorial display, remains unclassified and teenagers are wearing it around the ACT. I have seen it; it is disgusting. Had the ACT the necessary legislative powers to classify, this ridiculous situation would never have arisen.

I note with interest the terms of reference on censorship procedure issued by the Commonwealth Attorney-General, Mr Duffy, to the Australian Law Reform Commission in May 1990. Mr Duffy stated:

> ... there is similar agreement that there should be a principal censoring agency at Commonwealth level but that individual jurisdictions should be able to vary the decision of that agency for their own jurisdictions;

The commission's report, which was tabled last week, still does not recommend that the ACT have its own classification but recommends that we should still come under the Commonwealth, and I think that is very sad. I hope the Commonwealth Government will take up what Mr Duffy says and give us that jurisdiction. I am also glad to say that it is recommended in the report that clothing should be classifiable and should be included in the definition of "publications and advertisements" - something that I believe this ACT Government put up.

Mr Collaery: Not this Government, the former Government.

MS MAHER: Yes, the Alliance Government; and Mr Collaery did a lot of work on it. I for one would like to see the culling of slasher films, found in the R-rated classification. These films invariably portray women as victims. The classification guidelines currently state:

> Depictions of sexual violence are acceptable only to the extent that they are necessary to the narrative and not exploitative.

I take the view that no depiction of sexual violence is acceptable. I do not see the need for the highly realistic and explicit violence that is shown in R classification films. Surely continuity of the narrative can be achieved if such matters are alluded to, although personally I dislike the thought of the subject matter, even in a modified form.

I submit that there is too much violence in films and videos. In my opinion, it is about time the Commonwealth either addressed the issue or allowed individual jurisdictions to modify the publications themselves. A casual glance at the weekend press back in August reveals that others share the views that artistic freedom must be weighed against the growing revulsion and concern of ordinary citizens at the excesses portrayed in various forms of publications.

I would like to mention some of the articles published that weekend. In the *Weekend Australian* Phillip Adams, in an article headed "Make 'Em Puke: It's a Sick World", struggles to find the artistic merit in a reported R-rated film that "involved a line about shoving a pistol in a woman's vagina so as to blow her brains out ...". He quotes from an account given by the producer of the film that suggests that the fantasy perpetrator is "out there, created by American culture", which is sad, if that is where we are going.

Nancy Shulins, in the *Canberra Times* of Saturday, 11 August, in an article "Writers Take Revenge on Violent Men", notes the emergence of books and films where the main characters are women inflicting revenge on men as a response to female victimisation. The author quotes a commentator as saying that the male-dominated slasher movies are "a crude

response to male fears aroused by the new model of sexuality claimed for women by feminism". In other words, males feel threatened and they respond with grotesque fantasy violence.

In another article in the same **Weekend Australian** headed "Bishops Object to Censorship Policy", Katherine Glascott notes an AAP report that the Victorian Attorney-General, Mr Kennan, has called for the introduction of a new film classification covering very violent films. Over 12 months ago, in June 1990, the former ACT Attorney-General, Bernard Collaery, raised the same issue at a meeting of censorship Ministers in Alice Springs. Mr Collaery called for the new subcategory in the R classification to be called RV. The message finally seems to be hitting home; it has just taken a long time.

Sadly, the bishops referred to in that article may have been misled into thinking that the Commonwealth-sponsored Australian Law Reform Commission report imposed the ACT's censorship policy. This is not the case. It arose, so I am informed, because the commission did not heed the advice of the ACT not to use the ACT form in its draft legislation.

In the *Canberra Times*, in an article headed "Federal Court Orders Film Censorship Board to Classify Adult Videos", Rod Campbell notes that a local mail-order video company has successfully challenged the Commonwealth on a classification issue. One wonders whether, in hindsight, the Commonwealth would want to reserve the classification power to itself and suffer this embarrassment, particularly as we are told so often that the adult or X-rated video issue is solely an ACT matter.

Other recommendations in the report include one that the possession of child pornography should be an offence, regardless of its intended use, and I very strongly agree with that recommendation; and that a child of or over the age of 15 should be held legally liable for attending the screening of an R-rated film or buying an R- or X-rated film. I believe that that is correct, because I think young adults of that age do know what they are doing. I have not had a chance to read all of the report, but I think it is worth reading.

Getting back to the X classification, I have received a lot of information both for banning X-rated videos and against banning them. A lot is said about men going out and raping after watching X-rated videos. I believe that rape is not about sex but about power and about men wanting to use power over women, and I spoke about this in one of my previous speeches. Rape and pornography are about the power of men and the powerlessness of women, and I will stick by that. In *Apprenticeship in Liberty - Sex, Feminism and Sociobiology,* Beatrice Faust says:

> Some simple human behaviour can be explained by simple Pavlovian conditioning, but rape is not simple behaviour; it has inputs from right across the continuum of indirectness. The effects of pornography are extremely complex, but they do not include rape and they are not such as to justify censorship.

I believe that. People do not go out and rape and commit violence just because they are watching X-rated videos, especially taking into consideration that X-rated videos do not have violence in them.

Mr Stevenson has submitted a lot of information and spoken about the illegal activities within and behind the X-rated industry. If those allegations are true and warrant investigation, I have no problem with that and I fully support such an investigation; but I do not accept that the banning of X-rated videos is an appropriate way of dealing with that illegal behaviour behind the scenes. They are two separate issues. If there is illegal behaviour behind the industry, it needs to be looked at. The regulations and guidelines with regard to the licensing of X-rated video companies and the companies behind them need to be looked at. Banning X-rated videos is not the way to deal with the problem of illegal management of business.

I conclude by saying that 90 per cent of the calls I have received on X-rated videos have been with regard to violence; 90 per cent of them were interested in stopping violence. We need to look at the violence content of our videos and what is shown on television. I believe that the community is confused by the classifications of the videos in that they see X-rated as being highly restricted whereas R-rated is not, and therefore X-rated must be a lot worse than R-rated. The Assembly and the Government need to push the Commonwealth Chief Censor. I seek leave to table a letter I wrote to Mr Duffy, the Attorney-General, about six weeks ago with regard to the R-rated classification.

Leave granted.

MR MOORE (11.30): It gives me pleasure to follow a very enlightening speech by Ms Maher. One of the strongest supports for her argument comes from *Violence - Directions for Australia* from the National Committee on Violence, the committee chaired by Professor Duncan Chappell of the Australian Institute of Criminology. I have raised this issue before, and I think it is appropriate to include a few words from that report about the impact of the sorts of things Ms Maher was talking about, that is, the denigration of women and sexism, because that is what some of Ms Maher's debate concentrated on. The Committee on Violence argued:

> The committee deplores sexism and the denigration of women. It feels, however, that values such as these, no less than other anti-social thoughts, are best combated not by censorship -

in other words, not by the methodology that Dennis Stevenson is suggesting -

but by criticism, censure and stigmatisation in the marketplace of ideas.

That is the contribution Ms Maher has made today, and many of us have made it previously.

The association of violence with non-violent erotica is a methodology that has been used extensively by Mr Stevenson in his campaign to have X-rated movies debated. It is a great shame that Mr Stevenson and other members of the Assembly were not able to attend all of the national conference on the sex industry which was held in Canberra recently. Mr Stevenson attended only to speak, and his contribution was appreciated.

Also speaking was Professor Kutchinsky, whom Mr Stevenson has attempted to debunk here on a number of occasions. The responses to the debunking of Professor Kutchinsky were very enlightening. Speaker after speaker at the conference, from a whole range of perspectives, with the exception of Mr Stevenson and, as I remember, Senator Walters, who also spoke, was able to debunk the sort of statistical analysis that Mr Stevenson and Senator Walters put about the advent of erotica.

The statistics on rape and incest can be accounted for in many ways. Those statistics are not necessarily associated with the advent of erotica, and attempts to do so have been misleading in the extreme. I think many of you will remember that the Australian Institute of Criminology, just prior to the last time we had this debate, took Mr Stevenson to task for misusing the statistics they had presented on this issue. They made it quite clear that those statistics are not necessarily associated with non-violent erotica.

It is very important to understand that we are dealing with a series of films that do not have any violence at all associated with them. In fact, the X-rated classification means that there cannot even be coercion. In my discussions with the Chief Censor, he emphasised again and again that, if there is even the slightest emphasis on coercion, the movie is automatically removed. It is very important for us to consider just what it is that Mr Stevenson is trying to achieve and whether or not this methodology will achieve it.

Prohibition certainly appears to have the opposite effect from what it is trying to achieve, and we can see that quite specifically by reference to these sorts of movies. In New South Wales or Victoria, if you go into any of the obvious shops where you might be able to purchase these

things and ask around - I have done it at Kings Cross, just to test this - you will find that without any difficulty you can put your hand not just on an X-rated movie but on a movie that also has violence associated with sex.

If you go back to the philosophy Mr Connolly has presented - that you draw the censorship line following the theories of John Stuart Mill on harm to others - then that is an appropriate line to draw. If we send these movies underground, we will achieve exactly the opposite of what Mr Stevenson says that he is trying to achieve. In fact, all the arguments Mr Stevenson has presented are very strong arguments for doing what we have already done to restrict access to X-rated movies, but not to prohibit them.

This Bill makes the situation worse, and that is something we must not do. The effect of prohibition has always been to send things underground and make them worse. By avoiding prohibition but advocating restriction, as has been the case, we can have some control over what is in these movies. The situation that currently applies, of course, is that, because of the mail-order methodology they use, the people who sell these movies have huge lists of names - I understand, some 300,000 or more throughout Australia. They are not going to throw those lists away.

If we send this industry underground, instead of being in a position where we can have some impact on what goes into those movies we will lose control altogether and the situation will be worse. The only benefit will be that Mr Stevenson will get some advantage with a small percentage of redneck voters that are supporting him and supporting this move.

There is simply not sufficient evidence to say that non-violent erotica is harmful. The evidence that Mr Stevenson has presented to this Assembly up until now and that he has presented publicly almost always has referred not to non-violent erotica but to erotica in other parts of the world where they do not have non-violent classifications. You cannot extrapolate from that evidence to the ACT or to Australia. You cannot, anyway, extrapolate from that evidence, because it is always about a statistical analysis of an increase in rape compared to availability of erotica.

What has happened is that, at the same time as that erotica has been available, people's attitudes have been changing. Women now feel empowered enough to say, "Yes, I was raped. That person did it. I am reporting it". Just last week in Tasmania a husband was found guilty of raping his wife. No-one has the prerogative to carry out a violent action on somebody else, particularly a sexually violent action. We all agree on that.

Those statistics, as with the more recent statistics on incest, are not about whether something else has been made available; they are about people feeling that they can report and that they should report because it is unacceptable behaviour. No longer do we sweep this sort of behaviour under the carpet; we bring it into the open.

Since we were not sitting last night, some of you may have had the good fortune to watch *GP* on television. This situation was illustrated by one of the characters, who as a child had been molested and had not been able to deal with the situation. She is now an adult and her child was able to deal with the problem because there has been a great transition in our society in what we are prepared to talk about and what we are not prepared to tolerate. We are beginning to distinguish between what is violent and what is an agreement between two people.

I emphasise again that prohibition policies will have the opposite impact. This is the warning I gave when the X-rated video taxation was introduced. Mr Duby will remember that I interjected at the time they introduced a 40 per cent tax and said, "Wrong way to go; we should start with a 10 per cent tax and, if you like, take it to a 40 per cent tax. I have no problem with dealing with a 40 per cent tax".

I think we are all aware now that it was a mistake. With the heavy taxation, X-rated movies were forced underground and operators started all over Australia and were making their profits in that way. Had we introduced our tax on a gradual basis, then not only would we eventually have got more taxation but also we would not have had a sudden upsurge in competition, which reduced the number of X-rated movies going through the ACT and hence lost us some of that taxation base.

That is an argument about taxation and an argument about money. But it also implies the argument about prohibition - that an extremist solution will not resolve it. Dr Kinloch and I were fortunate enough to hear a speech by Dr Stephen Mugford in a series of talks presented at the Australian National University some two weeks ago, in which Dr Mugford emphasised what he calls the Goldilocks theory. When you are dealing with issues of prohibition and social control you can make the mistake, like Goldilocks, of being too hard or too soft. The answer for legislators, according to his theory - which is why he calls it the Goldilocks theory - is in the middle: Take a very careful look at how you are going to restrict rather than taking the extreme views of giving either a free-for-all or full prohibition.

That is what we have already done. We have already restricted these movies to Fyshwick, Mitchell and Hume; so they are not easily accessible, particularly to families, but are accessible to people who, because they choose to, want to watch a very explicit sexual act. I find that far

less offensive and less worrying in relation to my children - and I will come back to Mr Humphries' comment on children - than seeing somebody's head or stomach blasted away or a head cut off and rolling around, which can be seen on R-rated movies.

Mr Humphries asked: What if a child was to get to these terrible X-rated movies and put them on the television and watch them? What impact would that have? People have at home far more R-rated and M-rated movies that contain these things, and I have seen that sort of material on standard television stations as well.

Mr Humphries: This will act on those as well. It is not an argument against this Bill.

MR MOORE: Mr Humphries does not have children. As to those of us who do have very young children, the critical thing is that I believe that it is my responsibility to ensure that my children do not have access to either sorts of movies until they are old enough. If I were to find that somehow or other my children had access to an explicit sexual movie, I would find that far less of a problem - and remember that my children are eight, five and three - than if they were exposed to an R-rated movie of the type I have described. I do not want it to happen and I will avoid having it happen; but prohibition is not the way to go about it.

It would be even worse if we go for prohibition and we get the current New South Wales or Victorian situation, where such movies are available with violence and sexual coercion - - -

Mr Duby: And depravities.

MR MOORE: And depravities; that is correct. I would find that even worse, and that will be the effect of this Bill. That is the effect of prohibition. You lose all control. That is amply illustrated by a comparison with illegal drugs. Attempts to prohibit illegal drugs, wherever that has been done, have failed miserably and invariably have made the situation worse.

That leads me to draw the attention of members of the Assembly to clause 3(b)(ii) of Mr Stevenson's Bill, where he refers to an objectionable publication including, as well as matters of sex, drug misuse or addiction. What are we going to do now? Just when the debate on drug use and misuse is coming into the open, included in this Bill is an attempt to ensure that the matter cannot even be dealt with in terms of films. It does not say how it is dealt with; it says that it cannot be dealt with. That is the calibre of material we are dealing with in this Bill. I will vote against it.

MR DUBY (11.45): At the outset, let me put my position. I do not intend to support Mr Stevenson's Bill. However, I genuinely respect the views of the many people in the community whom Mr Stevenson has been able to rally behind this cause.

Mr Moore: He is really behind them.

MR DUBY: Yes. In a lot of ways, I genuinely respect their opinions. I have had a number of phone calls, conversations, letters, et cetera, from concerned members of the community. They have contacted me in recent weeks, and at other times when this matter has come before the Assembly, and expressed the view that X-rated films are a curse on society and should be abolished. The problem is that, when I discuss the matter with these folk, it almost invariably comes down to the fact that it is a moral position they have taken. On most occasions they quote to me statistics that are patently incorrect - statistics, I might add, that have been published by Mr Stevenson on a number of occasions.

I believe that a number of them have never seen an X-rated film, but they equate X-rated films with violence. They say that they are very concerned about violence, and therefore we need to ban X-rateds. Of course, nothing could be further from the truth. X-rated films are not violent films. They say that since censorship laws have been liberalised in various States the rate of sexual offences, rape, et cetera, in those States has increased dramatically. They also quote statistics from, for example, Queensland, which they claim show that there has been no increase.

These are figures contained in information supplied by Mr Stevenson. The problem is that those figures are patently false. I have reports indicating, for example, that in the last 25 years the number of sexual assault cases has virtually doubled. That is a major problem, but no-one disputes those facts. Queensland has the highest rate of increase of reporting of these crimes of any State in Australia. In 1985 the number of sexual assaults was 1,121; in 1988 the figure was 2,847. That is a massive increase of well over 100 per cent in a period of three years.

This is the State that under the previous regime, and probably still under the current one, had very tight censorship regulations, even down to having a Queensland edition of *Playboy*. I am a Queenslander and I know that if you want to get anything in Queensland you can. It is that sort of a society. Nevertheless, it is very difficult for the general public to obtain that material. In the last two weeks people have said to me on a number of occasions that Queensland does not have these films and that

Queensland has the lowest number of sexual assault cases in the country. That is clearly wrong, and Mr Stevenson knows that it is wrong, but he continually purveys it to the public. They believe him, as they should. Why should they not?

Secondly, people say that it is immaterial that the number of sexual assault cases has doubled; they say that they have doubled because of the availability of video and film material. The Australian Institute of Criminology on a number of occasions has quite clearly debunked that theory. Just for the record, I want to incorporate the information in my address today. According to the Australian Institute of Criminology, the reasons for the increase in reported sexual abuse cases include the success of the women's movement in persuading women and men that sexual offences are crimes of assault and ought to be dealt with by the courts. In the past there has been a reluctance to do this, a feeling of shame, a belief that it is the victim's fault. It never is.

There have been dramatic legislative changes right throughout the country, which greatly increase the scope of laws concerning sexual offences. In the past there had to be a very serious and violent attack before it would be dealt with by the courts. With liberalisation and the success of the women's movement in raising the profile of these offences over the years, the legislative changes have greatly increased the number of actions that can be regarded as offences.

Thirdly, demographic changes in our society since the 1970s have resulted in greatly increased numbers of people in their late teens and early twenties. They are the ages at which people are most likely to commit sexual offences, particularly rape. The Australian Institute of Criminology has said that sex attacks are simply not linked to erotica. Indeed, there seems to be evidence to suggest that the ready availability of sexually explicit material has meant that the rate of sexual attack on women has declined. As to the connection between the availability of pornographic material and the incidence of rape, there is a cultural factor involved. It is very rarely linked, or simply is not linked, with the availability of pornographic material.

In the United States, where there are severe restrictions on the availability of pornography in the general community, the rate of rape is 34.5 per 100,000 population, whereas Japan has a rape rate of 2.4 per 100,000 population. Japan has a great availability throughout the community of what we would regard as general pornographic X-rated material. Indeed, it is considered to be almost part of the Japanese culture. People who have complained here would get a heck of a shock if they walked around the Ginza in Tokyo and saw what was available to the population at large. I wanted to refute the argument that the availability of X-rated material somehow is linked to violence and sexual assault cases, particularly against women.

I agree with the comments made by Mr Moore. If the ACT votes to ban the availability of X-rated videos, I simply do not believe that the industry will be eliminated. That has been demonstrated quite clearly in New South Wales, Victoria and, indeed, the other States of Australia. People who suggest that X-rated material is not available in Sydney or Melbourne or Adelaide or Perth are simply living with their heads in the sand. As Mr Moore pointed out, invariably the operators in this industry, who are quite clearly breaking the laws and regulations of their own States, work on the basis that if they are going to be hung for a lamb they may as well be hung for a sheep.

The unclassified material, which has clearly been banned and which I am fairly confident is simply not available in our regulated and liberal industry here in the ACT - the stuff that should be banned, the stuff that portrays all the abhorrent things such as child pornography, violent sexual assault and other things - is then made available. The operator thinks, "I may as well be hung for a sheep as for a lamb. If I am going to provide these things, I may as well get the stuff that is illegal as well, because I am operating illegally in providing X-rated material, anyway".

There are literally hundreds of thousands of videotapes available right throughout the ACT community and the Australian community. The banning of them will have absolutely no effect on their availability. All it will do is add a black market value to them. They will become a sought after item and people will try to make undue profits out of them. I am sure that the best solution to the X-rated video problem is regulation rather than total banning. Prohibition simply does not work; regulation does.

It is unfortunate that the imposition of a 40 per cent tax on our industry in the ACT is sending the industry broke. The authorities in New South Wales and Victoria, in particular, will take no action against illegal operators in their own territory, who are able to provide illegal uncopyrighted copies. They are able to produce them; they have no compulsion whatsoever to follow copyright laws, let alone our taxation laws. They produce copies, and I have seen the covers of illegal banned videos which are available from Sydney wholesalers right now for $10 per tape.

The legal industry in the ACT simply cannot compete with that, for the simple reason that they pay copyright, they pay the appropriate taxes, and they want to keep their legal status. Indeed, in hindsight, I share the views of Mr Moore. The 40 per cent tax was a clear mistake on my part as Minister for Finance, and if I had my time over I would not bring it in at 40 per cent. I would still impose a tax, but I would not bring it in at 40 per cent. I would

also, and I think this will be covered by the former Attorney, Mr Collaery, be liaising very strongly with the police and the governments in other States to ensure that this insidious material, which no-one wants or appreciates, is banned.

MR COLLAERY (11.57): I agree with Mr Duby that the waterhole is poisoned. I think the figure given to me was 30 million articles already circulating. I hope the house will bear with me while I do an overview and explain how I am going to vote on this matter. X-rated videos are legally available in the ACT and the Northern Territory. The ACT inherited the industry and the system of laws applicable to the industry from the Commonwealth in May 1989. Since then we have become the focus of complaints - some of them well-founded - that the X-rated industry is emanating from Canberra.

The Commonwealth has reserved to itself the power to classify materials for the purpose of censorship. The ACT, on the other hand, is limited to laws which control the sale and distribution of those publications. The wording in the ACT (Self-Government) Act is currently the subject of a challenge from the video industry. I believe that the matter is coming up in the High Court in October, or thereabouts.

On that point, my view has been coloured from the outset in relation to Mr Stevenson's Bill. In May 1990 I received constitutional legal advice that, though the challenge to be mounted by AVIA, as it is known, would probably fail, my legal advisers had detected constitutional grounds and others whereby, were the industry to find out the argument, Mr Stevenson's Bill would be invalid and ultra vires.

I have been carrying that advice with me for some considerable time. I have no intention of helping the video industry by detailing that advice. The fact of the matter is that I do not believe, on the advice available to me at that time, that Mr Stevenson's Bill will survive a rigorous challenge in the High Court. From May 1990 I set about doing what I could, as a normal citizen and as the Attorney at that time, to do something concrete about a problem which ultimately Mr Stevenson cannot solve.

To come back to my overview, I accept that the content of some X-rated videos is contrary to accepted community standards. I regard group sex scenes as contrary to our accepted standards. I regard hostile scenes demeaning to women in sexual poses as contrary to accepted community standards. I sent a Law Office officer out to buy two of these videos from our petty cash, and I watched those videos upstairs. I think other members borrowed them from me, but I will give no further details!

I was astounded to see that at the beginning of the film there was a high-sounding moral injunction enjoining everyone to have protected sex, and there was a graphic demonstration of the use of a condom. The rest of the movie depicted totally unprotected multiple sex situations. I must say that I find that double entente akin to some of the arguments today. People are - excuse this dreadful pun - breastfeeding on the issue, but they are not coming up with a solution. I want to come up with a solution because I believe that there is an amount of this material which should be censored out of our community.

To continue the overview, some 75 per cent of the ACT distribution of X-rated videos and advertising material is by mail order. Under our Constitution, the mail system is exclusively a Commonwealth function. As Attorney, I constantly received complaints from individuals offended by unsolicited sexually explicit advertising received in the mail by them or their children. On inquiry, some of it appeared to be nasty jokes by neighbours, friends, workmates and, in some surprising instances, members of the household who had not come clean with those who empty the mailbox. But that in itself is an exercise about our extended family relationships, as they are at the moment - or are not.

There is a specific offence under the Commonwealth Crimes Act of using the postal service to deal with mail which would offend a reasonable person. In my view, some of the mail would offend a reasonable person, and it is the shame of the Commonwealth that it has not moved there. It is shameful that in this Territory we bear so much of the odium of the failure of the Commonwealth censorship authorities to do something realistic about it. I will come back to that. There have been large-scale seizures in other States, and the origin of those products has not been brought back to the Territory.

I have always argued that the States are wallowing in hypocrisy; that there are identified filming spots, film locations, reproduction facilities - in a cinematographic sense - in the States, and that nothing much has been done about it. I have said a lot about it in the presence of police Ministers, Attorneys and censorship Ministers. I do not read of any prosecutions. Indeed, Western Australian politicians say that they ban even the possession of this material, but I know that the Western Australian Government was offered a list of 14,000 names of subscribers from that State, and they did not particularly want the list. Although that is an anecdotal statement and I am not privy to the exact details, I will bet that it is true.

The States are wallowing in hypocrisy, and some of us, particularly me, have had to wear an amount of pressure. I show members a poster from the *Canberra Times* of Tuesday, 24 April, which said to all Canberrans, "Collaery Key to Videoville". You can imagine how inaccurate that is.

There are 17 of us here and 17 free-minded citizens can vote on it. But the pressures have come back to me. I will respond to the challenge and in a moment detail what I believe we can do about it in this house.

On the advice available to me at the time, an estimated 75 per cent of the sale and distribution of X-rated videos was for interstate sale and overseas trade, sadly, by mail order from the ACT. Some 15 per cent of over-the-counter sales in the ACT is wholesale trade, presumably for interstate traders. How do you like that? Some 15 per cent of this stuff goes to traders in the other States, not to individual recipients; so there must be clearing houses which are proscribed by the laws of those other States.

I recall that there was a large factory in Narrabeen, but the prosecution failed because the magistrate accepted that he could not be reasonably satisfied that the original tapes did not come from the ACT. So, there is a problem of proof, I concede. I make the point that the vast resources necessary to attend to legal challenges are available in that industry. The remaining 10 per cent of the trade is local in this Territory.

We must recognise the freedom of interstate trade provided in our self-government Act - section 69, I believe, which replicates, as Mr Connolly well knows, section 92 of the Constitution. Framing regulatory measures for any government law office in this Territory is a nightmare and wellnigh an impossibility. If the constitutional advice to me is correct, it is an impossibility within the framework that Mr Stevenson seeks.

Just prior to self-government the Commonwealth amended legislation to create a classification system in the Territory under the Classification of Publications Ordinance 1983. It is commonly believed that that is our ordinance. It is not; it remains under the control of the Commonwealth as an ACT ordinance. It was amended essentially to confine its provisions to classification matters in conjunction with the making of the Publications Control Ordinance, now an Act.

The Publications Control Act 1989 has been the subject of two private member's Bills by Mr Stevenson, and we are looking at the latter of the two. The Film Classification Act in the ACT relies upon the operation of classification exemptions under the corresponding New South Wales State law, and specifies that only classified films, G to R, with prescribed markings and subject to relevant restrictions, can be exhibited to the public. I reject completely the unnecessary attack in a debate on that Act on my colleague Dr Kinloch in relation to some suggestion that he was privy to matters which he does not condone.

The Commonwealth Government has not initiated a review of the operation of section 85S of the Crimes Act 1914, which could deal with the mail activities of these video outlets. Last year I referred some of the offensive mail material to the Department of the Prime Minister and Cabinet. I was advised by my office that a similar complaint had been made two years ago but remained unanswered, except for a courtesy acknowledgment. I was pleased that Ms Maher detailed the effective work the ACT Law Office did in challenging the censor and getting that disgusting record cover reclassified.

We have not succeeded in getting the DPP to take on the T-shirt. In their view, a T-shirt is not a publication because it is not on paper. I do not accept that advice, but I am not in a position to heavy the DPP - nor should any Attorney be.

Mr Berry: You bailed out.

MR COLLAERY: I will always bail out from heavying a DPP. If I do not want to follow Rex Jackson, I will continue to adopt that standard when I am next in government after February. Ms Maher mentioned my attempts at the censorship Ministers conference last year to get the other Ministers to recognise their hypocrisy. It was funny the way they all looked around the room when I made these points. The flick letters those Ministers sent saying, "It is up to my colleague in the Territory, Bernard Collaery. See him; he will ban it and save the nation", were very interesting.

I believe that we should call for the removal of the X-rated classification at the national level by the Commonwealth and the refusal of classification for any consenting sexually explicit material. We could modify the X-rated classification, and that is what I sought of the Commonwealth. The Commonwealth Chief Censor could simply modify the X-rated classification to get rid of a large measure of that material which I believe properly offends current standards in the community. We need a more vigorous intervention by the Commonwealth to regulate mail-order activities, and we should ask the States to relook at their situation.

Finally, members may note - the public may not be aware of this - that the convention was changed today to mean that private members could not bring their Bills on first in this chamber. One of the Bills I propose to bring in in October is a Residents Rally Bill which I believe will take the debate from Mr Stevenson. That Bill will seek to amend the Crimes Act as it applies in the Territory. It will create an aid and abet offence for those who breach the laws of other States from this Territory. That will effectively put the acid back onto each State Attorney to supply the information to our Australian Federal Police - and I stress that - who then may prosecute under the proposed amendment, which I hoped to move before this debate commenced.

The Labor Party has gone quiet, Mr Speaker. That will be the beginning of effective measures to deal with this industry. The Commonwealth will have to bear those prosecutions because the Australian Federal Police are directed and run under their own legislation, and ultimately they report to the Federal Minister, Senator Michael Tate.

Senator Michael Tate will have to decide to launch those prosecutions of the video traders in Fyshwick who aid and abet the breach of State laws. It is up to the States to bring forward their laws. It is up to the Federal Labor Government to prosecute those offences under the Commonwealth Crimes Act. It is up to this chamber, when we resume in October, finally to face the music - I direct that more than anything to the Labor Party - and vote to support a proper amendment to the Crimes Act to allow this action to take place.

They are groaning over there, Mr Speaker. They are groaning because they see the industry disappearing. I have not forgotten the donation they took from it. I am sick of carrying the burden of this matter and the attacks on my integrity. I believe that you will get this debate again very soon in this house. It will be on a realistic basis and will not allow anyone to talk about the redneck people out there in the community who are offended - and they are properly offended to some extent.

I agree with Beatrice Faust in this excellent new publication of hers. I have twice heard her on radio being interviewed in relation to it. She says, "Pornography is a symptom, not a cause, of the malaise in our community". I am not going to concede my lifelong views on censorship because we cannot find another way of getting rid of a large proportion of this muck.

MR STEVENSON (12.12), in reply: It has remained a mystery to many why Canberra is still used as a base to distribute video pornography throughout Australia, in contravention of State laws and against the overwhelming evidence of the increased violence committed by some who are under the influence of pornography. It has been said that if we ban X-rated video pornography it will go underground and this will allow criminals to take over the industry. While this view may be genuine, it is most ill-informed. It is impossible for organised crime to begin an involvement in the porn trade as the X-rated video industry in Australia is already controlled by a major organised crime network.

We have heard talk about censorship and prohibition. We have censorship and prohibition. We all agree with it. Child pornography is banned, incest movies are banned, bestiality movies are banned, and others. In Australia there are sex movies, or so-called adult movies, legally available in thousands of video stores throughout the nation. I have not mentioned, nor have I tried to ban, those pornographic videos. They are R-rated videos.

What the States have banned, and what I seek to ban with this Bill, is X-rated videos. Why do we seek to ban X-rated videos? Because they show bondage and they portray child pornography. They may not use children, but they show young-looking women dressed up as children. They show flagellation; they show various toilet acts; they show slavery, incest, obscene phone calls, voyeurism. They portray and promote casual sex and adultery.

In 1988, every Attorney-General called for a ban on X-rated videos. The then Federal Attorney-General, Lionel Bowen, added his voice to the call for a ban. The Federal Labor Party in government has repeatedly refused either to introduce the national ban on X-rated videos requested by Australia's senior law-makers, the Attorneys-General, or at least to bring the ACT into line with the ban in every Australian State. In every State in Australia it is illegal to sell, hire and distribute X-rated videos. This includes all governments controlled by the Labor Party. Only in Canberra and the Northern Territory is this pornography allowed.

The Northern Territory Government has in the past indicated that they do not want the Northern Territory to take over Canberra's role as the porn capital of Australia. Last month, Denis Collins, an Independent member of the Northern Territory Legislative Assembly, introduced a Bill to ban X-rated videos. Criminals running the porn trade will have little success in trying to set up in the Northern Territory once their operations are banned in the ACT.

Some members have said today that X-rated video pornography does not increase rape and violence. Let us look at the evidence. The two most recent worldwide investigations into the effects of pornography were in 1986 and 1988. In 1986 the US Attorney-General's Commission on Pornography found that X-rated video-type materials can result in people committing more acts of sexual violence and sexual coercion in a population so exposed. In Australia in 1988, the Commonwealth's Senate Select Committee on Video Materials was formed. That committee's majority report also identified the connection between X-rated videos and violence. The committee called for a ban on X-rated videos.

Dr Melville Anshell, who did a major study of sex offenders, listed four effects of pornography: The first was an addiction effect; the second was an escalation effect - those who watch it need more and more extreme pornography; the third was the desensitisation effect - people become desensitised to the things shown; and the fourth was the increased tendency to act out sexually that which is seen in the pornography. This simply validates what we all know: What we see influences what we do. That is why hundreds of millions of dollars a year is spent in Australia on television advertising.

What of the will of the people in this matter? Tens of thousands of letters, phone calls and faxes calling for a ban on X-rated videos have been received by both local and Federal politicians. In ACT surveys my party has done, the majority responding support the ban and are particularly supportive of preventing the ACT from being used to violate State laws. Our polls, unlike Gary Morgan gallup polls, paid for by the pornographers, did not ask biased questions and did not present false, as well as educative, data. I seek leave to table strictly confidential questions from Gary Morgan gallup polls.

MR SPEAKER: Is leave granted?

Mrs Nolan: No; I want to see it.

MR STEVENSON: Let us look at the organised crime control of X-rated videos in Australia. For over 10 years royal commissions and other inquiries by Federal and State authorities have identified connections between the video porn industry and organised crime, both in Australia and overseas. In three separate statements, and with the tabling of some two dozen documents in this Assembly, I have shown that the X-rated video industry is controlled by criminals.

In two of these speeches in the ACT Assembly I named Gerald Gold as being a leading organised crime figure. Since then, Mr Gold has written a series of letters and an affidavit to MLAs, claiming that he has done no wrong. In contradiction to his sworn affidavit, however, Mr Gold has been interviewed in connection with drug offences, money offences and various other matters. These have included the provision of cash laundering facilities and his employment of persons who have been involved in the illegal drug industry.

Gerald Gold has recently been placed before the Federal Court and is now a bankrupt. In an interview with Superintendent Warren from the Victoria Police Force on 2 September 1991 Mr Gold made certain statements. As a result of this interview, further inquiries have been commenced, which include a review of all Gold's failed businesses dating back to 1969.

Mr Moore: I raise a point of order, Mr Speaker. We have heard Mr Dennis Stevenson talking on Mr Gold on many previous occasions. The man deserves some protection in this house. He has, after all, not been found guilty of any offence. We have already heard this sort of thing before from Mr Stevenson. It has very little relevance to what we are doing, and he ought to desist.

MR SPEAKER: I ask you to be very careful in what you are presenting, Mr Stevenson. I take Mr Moore's point of view, and I think it is a general point of view held by most members of this Assembly.

MR STEVENSON: Mr Speaker, I have always been extremely careful in what I say. The investigation will particularly cover the list of 41 liquidated Gold companies that I tabled in this Assembly and the fate of the assets of those companies.

Mr Connolly: I take a point of order, Mr Speaker. I am a little disquieted that Mr Stevenson has been reading from what purports to be a record of interview or an interview between a Victorian police officer and Mr Gold, and now he seems to be describing a police operation conducted by the Victorian police. It would certainly be out of order for a member to be carrying on that way about our police. I wonder what relevance it has to the activities of this house. What is the propriety of Mr Stevenson apparently advising us of what he claims to be operational activities of an interstate police force, and what possible relevance has it to this debate?

MR SPEAKER: Again, I uphold the objection. Mr Stevenson, I believe that your statements with regard to a member outside the ACT community are hardly relevant. You have made your statement as to his connections, and I really think that is all that needs to be said in this matter. I ask you to return to the debate before us, on the Publications Control (Amendment) Bill.

MR STEVENSON: In a substantial proportion of the ACT media my statements on organised crime have been either played down or not reported at all. This is particularly true of the *Canberra Times* and the taxpayer-funded ABC radio. These are the two major media outlets where issues can be examined in detail. Neither the *Canberra Times* nor ABC radio has done a single feature story on this criminal activity. Alexander Gajic was - - -

Mr Moore: On a point of order, Mr Speaker: Can this man be named? You have given Mr Stevenson quite clear instructions and he is flagrantly - - -

MR SPEAKER: I uphold Mr Moore's objection. Mr Stevenson, I ask you to refrain from bringing further contentious material before the Assembly with regard to these people from outside the ACT.

MR STEVENSON: They have connections within the ACT, and this is the relevance of the matter. A 1989 investigation into donations made by companies associated with the porn video industry discovered that it was common practice for them to make donations to political parties, in addition to employing lobbyists who would go to any lengths to foster the belief that the porn video industry was wholly and solely administered by cleanskins. The 1989 investigation is being incorporated in any inquiries now under way.

Arthur Gibson, Deputy Senior Proctor of Cambridge University in the UK, discovered that the organised crime control of the porn network in Australia paralleled a similar network in the United Kingdom. He detected links

into finance houses in London, Switzerland and the Cayman Islands. He further nominated that Australian trading banks were choosing to ignore what was going on under their very noses, and that either the internal security of some banks was being administered by idiots or they too had been infiltrated by the crime networks. It is on record in this Assembly that the ACT Labor Party accepted $8,000 from pornographers during the lead-up to the 1989 ACT election. The ACT ALP failed to declare this money, as required under the Electoral Act.

In Victoria this morning there was an announcement that the inquiries already well under way into organised crime will also focus on the business empire of Mr John Lark. Mr Lark and his companies are, I believe, facing collection procedures from the ACT Revenue Office over the franchise fees for X-rated videos that came into effect on 1 July 1990. This financial year the cost of collecting these fees and the amounts of fees received will almost cancel each other out.

Of what further value is it to this Assembly to have Mr Lark and other pornographers say that it is of benefit to have the porn trade operate in the ACT? The budget papers clearly establish that these fees cannot be collected due to the closure and bankruptcy of some wholesalers. I have already established that pornography firms are prepared to engage in any number of devious techniques to avoid taxes. The only people we do not see suffering are the directors of these companies.

The police officer who I indicated had been engaging in a misinformation campaign is a member of the Victoria Police Force and has been investigated at that force's Internal Investigations Branch.

Mr Berry: I raise a point of order, Mr Speaker. Again, Mr Stevenson moves on a track which I think would probably attract some sort of defamation action if he were to do it outside this place. I warn Mr Stevenson that, while it is not the position of the Labor Party to gag debate, if he continues with this we will move that the question be put.

MR STEVENSON: It is expected that internal disciplinary action will be taken against him. There are other matters under investigation and individuals currently before the courts which I am unable to reveal at this time - - -

Mr Moore: He is just continuing.

Mrs Grassby: What are you the Speaker for?

MR SPEAKER: Order! Mrs Grassby, I resent that implication. The situation is that the issue has been debated in this house before. Mr Stevenson was asked to present information to the assembled members for their edification on this particular issue. You called him to his feet at some previous date. You suggest that I not

allow him to present it. I am listening intently to his debate and I am trying to stop him where it is necessary. Please give me some support, instead of that ridiculous outburst. Mr Stevenson, please proceed.

MR STEVENSON: There are other matters under investigation and individuals currently before the courts which I am unable to reveal at this time because of either confidentiality or the rule of sub judice.

The Publications Control (Amendment) Bill 1991 seeks to exclude from the ACT the operations of organised criminals involved in the X-rated video trade. Mr Collaery, when Attorney-General, indicated to me that if I could show an organised crime involvement in the industry he would vote to ban X-rated videos. I call upon him to do so.

This Bill also seeks to reduce the level of violence in our society. Worldwide research has shown that an increase in the availability of pornography of a type found in X-rated videos increases the rape rate. This is also true in Denmark where, after many forms of pornography and sex acts were legalised, nonetheless the rape rate increased from 173 in 1963 to 484 in 1978, 15 years later. While it is clearly ridiculous to suggest that everyone who watches porn videos will commit acts of violence, it is equally ridiculous to suggest that none will.

We inherited the dregs of this industry when the rest of the States banned them. Now we should do likewise. Members have a chance to do something about the discrimination against women, sexual abuse of children and violence against women. For the sake of Canberrans and for the sake of all Australians, I ask members to vote for this Bill.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 8	*NOES, 9*
Mr Humphries	Mr Berry
Mr Jensen	Mr Collaery
Mr Kaine	Mr Connolly
Dr Kinloch	Mr Duby
Mrs Nolan	Ms Follett
Mr Prowse	Mrs Grassby
Mr Stefaniak	Ms Maher
Mr Stevenson	Mr Moore
	Mr Wood

Question so resolved in the negative.

Sitting suspended from 12.30 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Government Service - Staff Reductions

MR KAINE: Mr Speaker, I would like to direct a question to the Treasurer. Over recent weeks the Treasurer has consistently used a figure of 250 as the number of jobs that she seeks to eliminate from the ACT Government Service this year. I draw her attention to Budget Paper No. 2 where, at pages 22 and 49, there are figures of 500 full-time staff targeted for reduction. I would remind the Treasurer that this is a document published over her name, not the Under Treasurer's name. Can the Treasurer tell us how many of our ACT Government public servants should feel that their jobs are in jeopardy as a result of this Government's budget and its intentions over the next 12 months?

MS FOLLETT: I thank Mr Kaine for the question, Mr Speaker. I guess the first thing that I ought to say, as my colleague Mr Wood has reminded me, is that it is definitely not 3,000, which was the target that Mr Kaine set. Not only did he not achieve his target of 3,000; he actually presided over something of an increase in staffing during the time that he was in government.

Mr Speaker, the Government has made a decision, which I announced in the budget strategy statement, to reduce staffing on the administrative side to make a saving of $6m in this year and $10m in a full year, and that translates to roughly 250 positions. That is the Government's decision on the staffing reductions; but it has to be said, as Mr Kaine has pointed out, that the budget papers do provide indicative staffing figures from agencies.

Mr Kaine: They are not indicative. They are quite explicit.

MS FOLLETT: No, Mr Kaine, they are not explicit. The figures do indicate - and they are indicative, as I say - the full-time staff equivalent of the expenditure decisions that are incorporated in the budget. The budget consists of dollars, not staff. The figures that you are referring to are the translation by agencies of funding-cut decisions into full-time equivalents. So, it is not correct to say that that should be interpreted as the Government cutting 500 staff. We have made no such decision.

Mr Speaker, I would like to make a further comment, and that is that the budget contains a number of initiatives that quite clearly involve savings, and some of those savings could be made as staff reductions. Obviously, the eradication of duplication - for instance, the consolidation of the corporate services into a single corporate services bureau - ultimately may achieve some staff savings. In fact, it is obviously the intention that over time that may well be the case.

There are some further staff movements contained in the budget - for instance, the Survey Office transferring in, and the Director of Public Prosecutions Office transferring in. There are staff movements throughout the budget. There is also, for instance, a lessening or an apparent lessening of the number of police for the ACT. That should not be interpreted as a loss of police positions, because it is not.

The fact is that the Commonwealth has agreed to fund some 42 additional police positions in recognition of the fact that they are required on national duties rather than community duties. So, there will be no reduction in police numbers as a result of that, but clearly the budget figure shows a salary equivalent of 42 police fewer. So, there are those sorts of movements throughout the budget papers. But I really should stress that the figures that Mr Kaine has alluded to do not reflect government decisions on job numbers; far from it.

The only decision which we have taken as a firm and announced decision is in regard to administrative staff, and we are, of course, making the savings and achieving the efficiencies that are outlined in the budget, fully committed to following all of the proper processes and the provisions of relevant awards. So, there must be full consultation with unions before savings are implemented. That has happened in regard to the 250 administrative staff. It will occur in relation to any other staff savings that are proposed or that might be proposed in the course of agencies achieving the efficiencies that the budget clearly requires of them.

MR KAINE: I ask a supplementary question, Mr Speaker. As the Treasurer has failed to answer the question, I have to ask: Does she repudiate the statement at page 49 of her budget paper which says that, consistent with the reduction in real terms expenditure, "expected average staffing numbers shown in Budget Paper No. 5, show an expected reduction in staffing in 1991-92 relative to 1990-91 of approximately 500 full time equivalent staff"? That is not the figment of somebody's imagination. It is figures extracted from Budget Paper No. 5. Do you repudiate that? If you do, are the rest of your budget figures, including the number of hospital beds and the number of jobs to be created for our youth, just as fuzzy as this lot?

MS FOLLETT: Mr Speaker, I can answer the entire question again, if that is the wish of the Assembly. I should point out yet again that what the budget paper says is that it is approximately 500 full-time equivalent staff. In other words, it is a translation of dollars into full-time equivalent staff. I repeat, Mr Speaker, that the Government's decision in relation to 250 administrative staff has been announced, and that the figures that appear

here are a reflection of agencies receiving less money. There is no doubt about that; they have received less money, and in some instances they may translate that into fewer staff.

If they choose to make their savings in that way, then we will go through the full and proper process of consultation with unions and with staff. There will be no sackings. There will be no across-the-board redundancies. All of the rules will be followed if - and I say "if" - agencies choose to translate their budget allocations into staff reductions. But the Government has made no such decisions.

Public Corruption Legislation

MR JENSEN: Mr Speaker, my question is directed to the Attorney-General, Mr Connolly. The Attorney no doubt recalls that my colleague the former Attorney-General was due to introduce the Public Corruption Bill in the week of the last no-confidence motion. In view of the fact that this Bill was prepared in accordance with the unanimous recommendation of the Legislative Assembly's Standing Committee on Public Accounts, which included a member of the current Cabinet, can the Attorney advise when the Public Corruption Bill will be introduced into the Assembly?

Mr Berry: I raise a point of order, Mr Speaker. The member is calling on the Attorney-General to announce government policy.

Mr Jensen: May I speak to that point of order, Mr Speaker?

MR SPEAKER: Yes, Mr Jensen.

Mr Jensen: Mr Speaker, as I understand it, the Public Corruption Bill is on the legislative program. I am just asking the Government to indicate when they are going to introduce it.

MR SPEAKER: Yes, I agree. I overrule your objection, Mr Berry. It is a matter of timing, not policy, that is being asked.

MR CONNOLLY: The Government is reviewing all legislation prepared by the former Government, and that is a matter that we do not see as having a high priority in the current legislative program. If opposition members were prepared to debate matters, as could have happened yesterday - we could have advanced progress on the guardianship package - we could introduce more legislation. But, if the Opposition shows no enthusiasm for assisting the progress of matters through the house, that matter will have to take its place in the queue, and it is not at the top of the queue. This obsession that the Residents Rally seems to be rediscovering with so-called matters of public corruption is quaint, Mr Speaker, but we do not see this as a matter of high priority.

MR JENSEN: I ask a supplementary question. Therefore, I can take it from the answer to the question that there are no funds specifically earmarked in the budget, and that means that the legislative program that you brought down was, in fact, a meaningless exercise. Is that correct?

MR CONNOLLY: Well, no, it is not correct.

X-Rated Video Tax

MR STEVENSON: My question is to the Chief Minister. I note that the expected revenue from the X-rated video trade is shown in the budget papers as being $200,000 - somewhat less than the millions of dollars this Assembly was told it would achieve. Would the Chief Minister indicate whether any action is being taken or is proposed by ACT or Federal authorities with regard to the non-payment of taxes by any people or companies involved in the porn trade?

MS FOLLETT: I thank Mr Stevenson for the question. I should advise that I have previously advised Mr Stevenson privately that section 97 of the Taxation (Administration) Act specifically precludes the commissioner from revealing any information about the affairs of an individual taxpayer, so I am not able to respond on his previous question.

But it is the case, Mr Speaker, that the commissioner has experienced difficulty in collecting assessments in respect of this tax. There is no doubt about that. The figures make that quite clear. Mr Duby's admission this morning that he was in error in the way that tax had been introduced and implemented, I think, makes it quite clear that the original intention of taxing X-rated videos has not been met, and specifically has not been met because of the way in which the Alliance Government sought to apply it. They were wrong. Mr Duby admitted that this morning.

I think it is also worth noting that the difficulties in collecting the tax are compounded by an action in the High Court which challenges the validity of the X-rated video taxing legislation. Mr Collaery alluded to that in his comments this morning. The commissioner does have to have regard to those proceedings in considering what further action he might take in regard to the recovery of any outstanding X-rated video licence fees.

MR STEVENSON: I did not ask for any specific people to be named. However, the question remains: Is the Chief Minister aware of any people or companies involved in the video trade that currently have action proposed against them? Yes or no would suffice.

MS FOLLETT: Mr Speaker, I believe that I have responded to that question. I believe that the Commissioner for ACT Revenue is quite correct in wishing to safeguard the tax records of everybody who has come before his office. I do not think that it adds anything to the current debate for us to speculate on whether or not there are current actions proceeding. I have made it quite clear that there are great difficulties in collecting the tax.

Tourism Commission

MRS NOLAN: My question is also directed at the Chief Minister. I would like to refer the Chief Minister to her budget speech yesterday, in particular to where she said:

> The ACT Tourism Commission is restructuring its activities ...
>
> The key objective is to streamline operations.

What is the reduction in the tourism budget in real terms, and how many jobs have been lost or will be lost as a result of that streamlining?

MS FOLLETT: I thank Mrs Nolan for the question. I am sure that Mrs Nolan is aware that the streamlining of the Tourism Commission has been going on for quite some time. When the commission was initially created, one of the prime objectives was, in fact, to streamline the entire operation and to enable the commission to concentrate the vast majority of its efforts on marketing. I believe that there is general acceptance that the correct primary purpose of the commission is actually to market the ACT.

The commission has been examining its entire activities for quite some time, and certainly during the life of the previous Government. There have been some decisions made, which I think are in the public arena, and they include the decision to close both the Sydney and the Melbourne offices of the ACT Tourism Commission. Clearly, there are some job losses involved there, although not a great number. But, Mr Speaker, the closure of both of those offices, I think, is well and truly warranted when you look at what it costs to keep them open and the return that is made on them. The rents in both Sydney and Melbourne are extremely high and I do not believe warrant the maintenance of those offices when there are other and better ways of marketing in both of those centres.

Mrs Nolan has asked me about the tourism budget overall. I think it is fair to say that the one-off funding that the Tourism Commission had enjoyed in the previous two budgets - the new policy money - is no longer there. They received a specific payment in both of those years which they will not be getting this year. If their restructuring is maintained and if they achieve the objectives that they have set out to

achieve, they should be able to spend very close to the same amount on marketing in this current budget as they did in the previous year, and I think that is very well worthwhile their doing.

There is also an amount set aside for them - I think it is some $300,000 - specifically for fitout to help them to relocate, to get out of the expensive accommodation that they are in now and into something more modest and to set up their office a bit more appropriately. Overall, they are experiencing straitened times, as are all other areas of ACT administration, but I believe that the funds that have been provided to them will allow them to concentrate on marketing and also make some provision for the changes that they need to make in relation to their accommodation and so on.

MRS NOLAN: I have a supplementary question about the reduction in real terms. Are we talking about a million dollars? More than that? Less than that? What is the exact reduction?

MS FOLLETT: Mr Speaker, I think it is best if I look up the budget papers and provide Mrs Nolan with those details.

Traffic Congestion

MS MAHER: My question is directed to the Minister for Urban Services, Mr Connolly. I have had some representation from a number of people concerning the traffic jams which occur around this building during peak hours - morning and afternoon - especially at the intersections of London Circuit and Constitution Avenue and Allara Street and Constitution Avenue, and also in Nangari Street. If the Minister is aware of the problems, are there any improvements planned? If so, what improvements? If the Minister is unaware of the problems, will he give a guarantee to have this issue investigated as soon as possible?

MR CONNOLLY: The Minister is very aware of the problems given that the Minister drives his car in that direction every morning and is often stuck in the traffic, like other members. There does appear to be a major fault there which basically is caused by the fact that the lights at that intersection do not have an arrow. I have asked my department about that and they tell me that they are aware of the difficulties and there is a proposal now being implemented which will see right-hand-turn arrows being introduced onto the lights at this corner.

Mr Jensen: They were doing that eight or nine months ago.

MR CONNOLLY: Well, eight or nine months ago, Mr Jensen, there was a very unresponsive government in power that refused to listen to community views, that refused to take action on important issues, that closed the Ainslie tip,

that took all this sort of irresponsible action. So, I agree with you; there was a problem eight or nine months ago. The problem was the Alliance Government. That problem has gone. The Labor Government is in power and we are putting in these right-hand-turn arrows.

Mr Collaery: Only because we believed you. What about Learmonth Drive?

MR CONNOLLY: Mr Collaery seems to be getting stirred up over this issue. I can assure the house that we are putting these arrows in in October. It should solve that problem to a large extent.

Public Hospital Beds

MR HUMPHRIES: My question is to the Minister for Health. I refer to his obsession during his period in opposition until a few months ago with bed numbers as an indicator of the quality or success of our hospital system. I also quote him, from page 3651 of last year's *Hansard*, where, referring to the plans of the then Alliance Government, he said:

> The plan is to wind back the number of public hospital beds, in percentage terms, which are available to the people of the ACT. The fact of the matter is that there will be fewer public beds available to the ... ACT when this Government is finished.

My question, Mr Speaker, is: To which government was he referring?

MR BERRY: What was the page number?

Mr Humphries: Page 3651, of 16 October 1990. You said it, Wayne.

MR BERRY: Well, 16 October 1990; anybody can work out which government it was. It was the Alliance Government, and what Mr Humphries quoted turned out to be true. They worked to reduce the amount of services. They mismanaged the hospital system, as is a matter of record. There was a $6m blow-out because of unapproved activity and, of course, that was of some significant embarrassment to the Liberal Health Minister. It is true that the Alliance Government was responsible for cutbacks in beds. They were unable to manage the hospital system, to improve productivity in terms of modern technology and those sorts of issues which will improve its efficiency.

Now, that is what Labor is going to do. Labor is going to improve the efficiency of our hospital system and we are going to do it by way of a number of initiatives, many of which have been drawn to your attention. I will mention a couple of initiatives, which you might be interested in,

which will assist us in sorting out these matters. One is the introduction of an integrated day surgery service. As a result of that, we will have some reductions in the average length of stay, in line with national trends. There are national trends emerging which Labor intends to pursue to ensure that the savings which were announced by the Alliance Government but never pursued in relation to the hospital redevelopment are, in fact, secured. Labor will do that. We will not talk about it; we will do it.

Part of that process, of course, is ensuring that we stay in line with the national trends of shorter length of stay, and it will mean pursuing the introduction of new technology and a changed way of delivering procedures within our hospital system. There is no question about it; if there is a need for fewer hospital beds we will not keep open unnecessary hospital beds. But we will ensure that the necessary number of beds are open to ensure that the people of the ACT have access to quality acute care.

Mr Humphries: You are caught out, Wayne.

MR BERRY: Mr Humphries says "caught out". I think he has got it wrong. He has got it wrong again. He got it wrong when he was managing the hospital system himself. He was not able to keep a rein on the hospital budget system. He did not even bother to follow it through. He having not followed it through, we ended up with a huge budget blow-out, $6m of which was because of unapproved activity.

Mr Humphries: Is this the Follett Government you are talking about?

MR BERRY: That is your ministry, Mr Humphries. They are the sorts of things that Labor has had to follow up on and, of course, fix. Labor is about fixing these problems, and part of that process is, as I have announced, the introduction of efficiencies which will ensure that the people of the ACT end up with a stronger public hospital system as a result of the actions that we will pursue. We will not just talk about it; we are going to deliver. The board have offered up savings to ensure that the budget that the Government has decided upon will be delivered.

At the same time, of course, things that were not addressed by the former Government will be pursued by this Government, specifically in the area of financial management. A significant amount of funding has been put aside to make sure that the financial management of our hospital system works better. We have done that as a priority - something that the former Government failed to do, even though it knew about it from day one of its taking of government in 1989. We have acted quickly to provide funds to improve the financial management of our hospital system, and we will work towards ensuring that the financial management of the system works better.

All these things were not addressed properly by the Alliance Government, a government which had a fixation with the reduction in services and a handover of public hospital services to the private sector. We do not have that. We do not have that tunnel vision. We have a - - -

Mr Humphries: I take a point of order, Mr Speaker. The question was rather more explicit than what Mr Berry is giving us in the way of an answer. It was, I think, answered some time ago. I ask him to finish his answer so that I can ask my supplementary question.

MR SPEAKER: Mr Berry, I ask you to draw to a close, please.

MR BERRY: Mr Speaker, I will conclude by saying that there is no question in the mind of anybody who is watching the ACT Legislative Assembly that Labor will produce a better result for the people of the ACT. It has made it clear that it has the philosophical commitment to do so, contrasting starkly, of course, with our political opponents opposite, and we are on track. This budget is part of the process. There is no doubt that this will require some tough management decisions, but this Assembly now has a government that is prepared to take those tough decisions. However, we will take them against a background of a commitment to social justice.

MR HUMPHRIES: I have a supplementary question, Mr Speaker. I thank Mr Berry for his longwinded admission that this Government is engaging in exactly the same process that he accused the former Government of engaging in. I also note his comment today that a bit of tricky planning will be required to make sure that bed numbers can be cut. I ask the Minister to indicate clearly to the Assembly, given his on-track approach and his tough decisions, exactly how many beds are going to be cut from the ACT public hospital system.

MR BERRY: The first thing I would like to refute is Mr Humphries' suggestion that this Government has made an admission that it is continuing on the same path as the former Government. That is patently untrue. This Government is about producing better services for the people of the ACT, not worse ones. That is the stark contrast which I think everybody is aware of. In relation to Mr Humphries' question, I think we have to analyse the way that the former Government treated the public hospital system.

Mr Collaery: Mr Speaker, I raise a point of order. This man is utilising half of question time. It is quite improper. It is a breach of the rules, specifically standing order 118(a). I ask that you put an end to it so that the rest of us can ask a question.

MR SPEAKER: Thank you, Mr Collaery. Mr Berry, I would ask you to draw to a conclusion, please.

Mr Humphries: How many beds are you cutting?

MR BERRY: It is a bit hard. There are a few galahs on the fence over there.

Mr Jensen: Answer the question.

MR BERRY: Which question is that, Norm? I think it is Mr Humphries who is asking the question. Having gone through that process of analysing the former Government's position, I now turn to another of the issues which were raised by Mr Humphries in relation to bed numbers. The keynote, Mr Speaker - - -

Mr Jensen: Mr Speaker, I take a point of order under standing order 118(a) and (b). Answers to questions should be concise and confined to the subject matter and should not debate the subject. That is all we have had for the last half-hour.

MR SPEAKER: I call Mr Berry.

MR BERRY: I find this appalling.

Mr Stefaniak: You are not Robinson Crusoe.

Mr Humphries: What a hypocrite!

MR BERRY: This is a very serious issue and I think it has to be dealt with in detail. Mr Humphries will tolerate no less.

Ms Follett: I raise a point of order, Mr Speaker. Mr Humphries interjected to Mr Berry, "What a hypocrite!". I think we have had previous rulings that that should be withdrawn. I would ask that you rule that way again.

Mr Humphries: I withdraw; but I ask Mr Berry to answer the question. How many bed numbers? How many beds are going to go?

MR SPEAKER: Mr Berry, will you draw that to a conclusion?

MR BERRY: I will. I have some significant notes on the subject. The keynote of the budget is increased efficiency. We are pursuing a disciplined approach to financial management while protecting Labor's fundamental commitment to social justice.

Mr Humphries: The number of beds! Mr Speaker, he is abusing the institution of question time.

MR SPEAKER: Order! Mr Humphries, I was hopeful that Mr Berry was going to give you the answer you had asked for. Mr Berry, if you cannot answer the question - - -

MR BERRY: I can answer the question, Mr Speaker, but not in the way Mr Humphries wants me to. The health budget - - -

MR SPEAKER: Order! I ask the Minister to resume his seat.

Rescue Services

MR COLLAERY: Mr Speaker, my question is to the Attorney in his role as Minister responsible for policing in the Territory. In view of the fact that his Cabinet colleague Mr Berry has had a longstanding interest in the fire brigade - in fact, industrially as well as empathetically - can Mr Connolly give us an unqualified assurance that he has not conceded in his caucus a transfer of police rescue functions out of the north side of Canberra, as was negotiated, to the fire brigade?

MR CONNOLLY: As is often the case with some of Mr Collaery's questions, it is a little hard to understand what he has in mind. The short answer is that there has been no government decision on the transfer of police rescue functions from north Canberra. Given that there has been no government decision, there is hardly any likelihood of any caucus concessions or whatever Mr Collaery was talking about.

It is basically symbolic of Mr Collaery's understanding of government, which we witnessed for 18 sad months, where government proceeds rather like a fight between two pit bull-terriers or, in fact, four pit bull-terriers, with Ministers at one another's throats all the time, abusing and insulting each other through the media and elsewhere, making decisions through a process of public leak and attack and character assassination, one on the other. The extraordinary sights we saw of Mr Humphries and Mr Collaery - - -

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

MR CONNOLLY: He asked about our decision making process. I am contrasting our decision making process and the relationships between the Minister for Health and me with the obvious decision making lack of process and the relationships between the former failed $6m blow-out Minister for Health and Mr Collaery. The short answer, of course, as I say, is that there is no decision on transfer and hence no possibility of the extraordinary conspiratorial suggestions that Mr Collaery makes.

MR COLLAERY: I have a supplementary question, in response to the Attorney's answer. Will the Attorney indicate whether the review of the policing arrangement, referred to in Budget Paper No. 5, at page 126, will not include a review of the arrangements signed between the police and the fire brigade? He is getting his instructions at the moment, Mr Speaker, so I will wait.

MR SPEAKER: Please proceed.

MR COLLAERY: I ask whether that review of the arrangement will not include a review of the settled arrangement - the arrangement settled this year with the police and the fire brigade - on the division of rescue services in the Territory.

MR CONNOLLY: Mr Collaery drew attention to what he described as my instructions from Mr Berry. Mr Berry's no doubt sinister instructions were, "It is a review". Mr Collaery, I cannot put it more simply, or more cogently, or better than that. It is a review. A review will review all issues. The ACT Labor Government made a decision, announced in the budget, which involved a reduction in the allocation to policing of a very minor amount - about two point something per cent of the police budget or $1.2m. The police are, operationally, looking at how they will achieve those very minor administrative savings.

There is a review of the policing arrangement with the Commonwealth. The ACT Labor Government was able to achieve a significant benefit to this Territory in getting an additional 42 positions paid for by the Commonwealth - a net gain to this Territory of some $3m-odd - and, significantly, a reduction in the overfunding that the Grants Commission will look at. It shows up in the budget papers as a reduction of 42 staff. Of course, it is not a reduction of 42 staff; they are still there; they are still doing Canberra policing; but they are paid for by the Feds. That means that the Grants Commission alleged overfunding has been reduced by those 42 positions, which is about 7 per cent out of a 28 per cent reduction.

So, the ACT Labor Government is achieving remarkable things in policing. What we are not doing is what Mr Kaine said he would do. Mr Kaine last year, in August 1990, said, "We will bring the expenditure on the police back to a reasonable figure". He was talking about major reductions. But, more than that - wait for it - he said, "We will do to the police just as we have done in education and health". So, they will stuff up the system, close facilities, create total chaos and no doubt have a budget blow-out, to boot. That is not what we are doing, Mr Speaker.

Ms Follett: Mr Speaker, I ask that further questions be placed on the notice paper.

PAPERS

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning): Mr Speaker, for the information of members I present a Department of the Environment, Land and Planning corporate plan 1990-91 entitled "Partners in Quality", and also draft variations to the Territory Plan for the Yarralumla Brickworks and the Jamison Centre in Macquarie, pursuant to section 22 of the Interim Planning Act 1990. In accordance with

the provisions of the Act, these draft variations are tabled with the background papers, a copy of the summaries of each written comment, and a report on consultation with the National Capital Planning Authority.

PRIVILEGE
Statement by Speaker

MR SPEAKER: Members, I would like to make a statement with regard to privilege. Yesterday Mr Humphries gave written notice of a possible breach of privilege concerning a letter he received from the Deputy Chief Minister on the matter of his recent introduction of the Trading Hours (Amendment) Bill. In the letter Mr Berry stated:

> ... it is required that the Bill be withdrawn until consultation with the community is completed.

Under the provisions of standing order 71, I must determine whether or not the matter merits precedence over other business. If, in my opinion, the matter does merit precedence, I must inform the Assembly of the decision, and the member who raised the matter may move a motion without notice forthwith to refer the matter to the Standing Committee on Administration and Procedures.

I have considered the matter carefully and have concluded that a contempt may have occurred. *House of Representatives Practice* quotes May's definition of contempt as:

> ... any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as contempt even though there is no precedent of the offence.

That comes from *House of Representatives Practice*, second edition, page 686. I will therefore give precedence to a motion of referral of the matter, should Mr Humphries wish to move one.

Before calling Mr Humphries, however, could I suggest that the matter is one that may be best dealt with by way of an apology. For the information of members, I table the letter to Mr Humphries and the letter from Mr Humphries to me.

Mr Berry: Is there one from me as well?

Mr Moore: Are you going to table the letter from Mr Berry as well?

MR SPEAKER: I have in fact done that. The situation, as I see it, is that there may have been an unfortunate choice of verbiage in the letter from the Deputy Chief Minister to Mr Humphries. If that is, in fact, the case, I suggest that maybe Mr Berry might resolve the issue very quickly.

Mr Berry: Can I come back to that after the ministerial statement? I will have a look at the letters.

MR SPEAKER: No, that is not an appropriate action. Either we have a withdrawal or we have the motion.

Mr Humphries: It takes precedence under standing order 71.

Mr Berry: Could I have a look at the letters?

MR SPEAKER: Yes, Mr Berry.

MR BERRY (Deputy Chief Minister): Mr Speaker, I seek leave to make a short statement in relation to this matter.

Leave granted.

MR BERRY: Thank you, Mr Speaker. As members are aware, the Government has released the recent report on ACT trading hours. It intends to consult with the community on that score and we intend to take into account the views of the community. The reason we have done that, of course, is that there has been a change of government. The report was initiated by the former Government and it is only appropriate that Labor seek the community's views about the recommendations of that report.

Subsequent to Labor's decision to release the report, Mr Humphries placed before this Assembly a Bill which would cut across some of the issues that might be dealt with by way of consultation with the community in relation to that report. Of course, I, for one, have been critical of Mr Humphries for that pre-emptive action. I think this is an issue which requires close consultation with the community and I think it is important enough for the Government to be fairly firm on that matter. The Government should be able to take a firm position with anybody who would try to head off that process of consultation, because it is something that we are well known for and that we intend to pursue in relation to this matter.

Mr Speaker, you said that it might be unfortunate verbiage or an unfortunate interpretation of the verbiage. What I said to Mr Humphries was:

> Accordingly it is required that the Bill be withdrawn until consultation with the community is complete.

Well, it is true that I cannot require Mr Humphries to withdraw a Bill, and in that sense, yes, it was an unfortunate turn of phrase. I think it was a bit churlish of Mr Humphries to raise it as a matter of privilege, because it clearly is not. I cannot require that. I have been around the Assembly long enough to know that I cannot require it.

If I have offended you, Mr Speaker, in that respect, I very sincerely apologise. I want to make it clear that there was no ability on my part to require Mr Humphries to do anything in relation to the matter; but what is required for the purposes of consultation, fair consultation, is that the Bill be withdrawn. I think the message is clear to Mr Humphries. If we are to get fair dinkum consultation completed in relation to that report I think the community would require that the Bill be withdrawn. I just hope that I have not offended you, Mr Speaker. The form of words was unfortunate, and I can say no more than that.

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

Leave granted.

MR HUMPHRIES: Mr Berry has raised some issues concerning the Trading Hours Bill which, with respect, are completely irrelevant to the matter of privilege that I have raised with you; but, since he has raised them and spoken on the matter, I intend to touch on them very briefly. Mr Berry says that the Government released a report. That is not quite true. The fact is that the Opposition released that report because the Government did not intend to. The report became public a day before the Minister in fact was prompted to release it for public discussion.

Secondly, Mr Berry claims that the Government intends to consult on that report, or at least consult on the question of trading hours. I would remind him of two things: First of all, extended trading has now been a reality in the ACT for almost two years, and consultation is almost past its prime, I would have thought, at this stage. Secondly, Mr Berry's Government has sat on that report for three-and-a-half months without any consultation being attempted. In fact, no consultation would have been appropriate or possible in the circumstances that the report on which that consultation would have to be based was being concealed by the Government through non-disclosure.

Mr Berry had the chance three-and-a-half months ago, when he was sworn in as the Minister responsible for industrial relations in this Government, to table that report and get on with consultation. He had not done so.

Mrs Nolan: Didn't a consultant consult?

MR HUMPHRIES: I suspect, Mr Speaker, that in fact he had no intention of doing so. In fact, as Mrs Nolan points out, the consultant itself has consulted very extensively on that question already, so there is no prima facie argument for more consultation.

Mr Speaker, the point of my raising the matter with you was not to debate the matter of trading hours; it was to ask that the matter of privilege be considered by you and perhaps by the Administration and Procedures Committee, based on Mr Berry's choice of words. I would not have thought it was possible for Mr Berry, by mistake, to dictate to his secretary, or whatever he might have done to have drafted that letter, "It is required that you withdraw the Bill". Clearly, Mr Berry intended to use those words. Mr Berry intended to come close to breaching privilege in this Assembly. Mr Berry had no intention of using the forms of etiquette or politeness that most other members of this Assembly adhere to. Mr Berry intended to sail close to the wind, as he usually does.

Mr Berry, I think, ought to have been in a position to apologise today. He did not have the good grace to apologise to me, but I think we will have to accept the apology he made to you instead. I might say, though, Mr Speaker, that Mr Berry's contemptuous attitude towards this Assembly and towards the institution which is this Assembly is disgraceful. His approach to question time is to use up every possible moment to minimise the chances other members have to ask questions. His approach is to be denigrating and dismissive of others in the Assembly, and I think he ought to take his medicine.

Mr Berry: I take a point of order. I do not mind Mr Humphries having a shot on the substantive matter that is before the Assembly, but to go into the issue of question time is quite another matter. The answers in question time are entirely another issue.

MR SPEAKER: Thank you, Mr Berry. I would ask you, Mr Humphries, to draw to a conclusion.

MR HUMPHRIES: I will, Mr Speaker. I would ask Mr Berry to take a little bit more consideration of the other members of this Assembly, based not on any regard he might have for us as people but on the fact that his leader, Ms Follett, in establishing her Government, said, "This will be an open and consultative government. We will talk to others in the Assembly about what is going on". We have not seen that so far. We have not seen it particularly from Mr Berry. I would ask that that so-called principle of this Government be adhered to for a change. Mr Berry does not like it. He squirms and he does not like it. The fact of the matter is that two can play that game. The boot will be on the other foot one day and Mr Berry will complain very loudly if the same treatment is given to him as has been given to those on this side of the chamber.

MR SPEAKER: I consider this issue to be resolved.

HEALTH AND SOCIAL WELFARE MINISTERS MEETING
Ministerial Statement

MR BERRY (Minister for Health and Minister for Sport): I seek leave to make a ministerial statement on the joint meeting of Health and Social Welfare Ministers held in Sydney on 6 September 1991.

Leave granted.

MR BERRY: As members of the Assembly would be aware, Commonwealth, State, Territory and local governments are actively engaged in the process of reform of intergovernmental relations across Australia. This process, Mr Speaker, was instigated by the inaugural Special Premiers Conference held in October 1990. Amongst the various reform tasks set in train by that conference, ministerial councils in relevant program areas were asked to review roles and responsibilities in program and service delivery to enable recommendations to be made to heads of government by November 1991.

In August the Chief Minister addressed the Assembly on the outcomes of the Special Premiers Conference held in July this year. At the July conference the Chief Minister successfully pressed for the communique to recognise the importance of proper consultation with the non-government sector in the functional review process, in view of that sector's strong interest in service delivery.

Reports on functional reviews in the areas of child-care, the supported accommodation assistance program and health and aged care, including mental health and rural services, were considered at the joint meeting of Health and Social Welfare Ministers on 6 September 1991. The ACT supported a decision to release these reports to enable community consultation prior to the next Special Premiers Conference in November.

I intend today, Mr Speaker, on behalf of myself and my colleague Mr Connolly, the Minister for Housing and Community Services, to outline the options presented at the joint meeting. The meeting considered first the reports of functional reviews into child-care programs and the supported accommodation assistance program, commonly known as SAAP. The options presented essentially range from proposals for the Commonwealth to assume sole responsibility, to joint responsibility between the Commonwealth and States, to the States assuming sole responsibility. Ministers agreed that the reports should go forward to the Special Premiers Conference in November and that they should be made public. Comprehensive community consultation will be undertaken in the next few weeks. The community's input on these issues is vitally important.

While it would not be appropriate to pre-empt this process of community consultation, I think it would be useful to indicate the Government's initial thinking at this stage. The outcome of the community consultation will then be given detailed consideration as the Government develops its final position in the lead-up to the Special Premiers Conference, so that we can reach decisions on the basis of a full understanding of the needs of the community.

Against that background, the Government would, as a preliminary position in relation to SAAP, support moves to enhance the efficiency and effectiveness of the current program. This would recognise joint Commonwealth and State responsibilities, but with greater emphasis on agreed national objectives and strategic issues. Option 3 in the functional review report on SAAP sets out greater detail along these lines. The ACT would also support further work on defining program outcomes for SAAP in other than financial terms and, subject to acceptable national standards and maintenance of effort in terms of client outcomes, development of alternatives to current matching arrangements.

In relation to child-care, the ACT would, as a preliminary position, support the broadbanding of child-care programs, with minimal conditions to allow joint Commonwealth-State involvement in the development of national goals and performance outcomes, but to enable States to have a clearer responsibility for service delivery.

As for other reviews, the ACT's financial position will also be considered once related reports on tied grants and distribution of taxation powers have been considered. As I have said, Mr Temporary Deputy Speaker, we wish to hear the community's views on both the child-care and SAAP functional review reports in order to determine our final position on these reviews.

With respect to the functional reviews of health and aged care, there was general agreement at the joint meeting of Health and Social Welfare Ministers on the need for a national approach because of the significance of expenditure in this sector on macro-economic objectives and the need for global containment; the significance of these services as part of the social wage; and the problems of scale and viability for the provision of some high-level health specialties. It is also in the national interest to ensure that broadly the same levels of access to care at the same costs to the consumer are delivered in a similar way in all States and Territories, for equity reasons and to avoid inappropriate cross border flows.

The functional review on health and aged care identified between 30 and 40 separate Commonwealth and State programs, from hospital funding grants and the medical and pharmaceutical benefits programs to smaller specific purpose payment areas such as the Flying Doctor Service, aids and appliances, et cetera, amounting to something of the order of $24 billion worth of expenditure.

Because of the existing program structure, a number of concerns and issues have emerged, such as cost shifting, and consequently incentives for bad practice, between hospital and community services; pharmaceuticals provided in outpatient departments of public hospitals are funded by the States, whereas pharmaceuticals provided in the community are funded by the Commonwealth; and the existing complex arrangements mean that it is very difficult for patients and clients to access required services, and the standards of care can be compromised.

An overarching committee comprising representatives of health and aged care from all States and Territories reviewed these arrangements and brought forward to the joint Ministers meeting some proposed new program structures, in an attempt to resolve some of these problems. Members of the Assembly may be aware that, in parallel with the intergovernmental consideration of how best to rationalise the jurisdictional responsibilities across the enormous scope of programs, the Federal Minister established a national health strategy to review the complete range of issues in health care in Australia today.

In July this year the first issues paper, "The Australian Health Jigsaw", was released for public comment and focused on the need to improve integration of the health care service delivery system. It documents a number of problem areas which are experienced by both clients and health system planners. A number of new program arrangements were proposed.

At the meeting on 6 September these two processes were brought together for the first time. A new structure has been proposed, which may have the following five principal policy groupings: First, medical specialist and diagnostic services, including those now provided in outpatients which could, on clinical grounds, be delivered interchangeably in either a hospital outpatient department, specialist private rooms or a community setting. Secondly, all non-inpatient pharmaceutical services to be incorporated into a single program, whether they are provided in a public hospital setting or community pharmacies.

Thirdly, a new public hospital program to cover policy and funding for inpatient services, day surgery, day treatment and other clinical services where a hospital setting is necessary for clinical reasons, such as emergency services. Fourthly, a primary care program to include general practice, community health services, palliative care, post acute care, community based care services and such primary medical care as is provided in public hospitals. It is recognised that the implications of linking general practice with community health services will require further exploration and policy development. Fifthly, a new program of long-term care for the aged to draw together residential care such as nursing homes and hostels as well as support services in the community aimed at maintaining people in their own homes.

Consideration was given to the considerable overlap in responsibility for services to these population groups, particularly between levels of government, and this program is aimed at those, such as the elderly, whose needs are for multiple services on a continuing basis. Optimum client outcome is now regarded as best achieved by providing people with more choices through either assisting them to remain in their own homes or moving them to the least restrictive setting.

On the issue of mental health, Ministers endorsed the report of the mental health task force. Whereas separate specialised mental health services have to date been the responsibility of the States, Ministers restated their commitment to having a national mental health policy. Community and consumer concerns have been expressed about standards of care and consumer rights. Australia's international obligations under human rights agreements make it important that this issue be addressed nationally.

Ministers also considered the various strengths and shortcomings in the organisation and financing of Australia's health care system and agreed to consider the following sorts of reforms which, while retaining the positive aspects of the system, also could introduce new opportunities for improved care and better efficiency. Area regional health management arrangements, such as that in place in the ACT, were recognised as offering an opportunity to use a needs based population resource allocation formula to achieve a more equitable distribution of resources across Australia and in turn redress the considerable uneven distribution which has emerged in some areas.

The poor data available to manage hospital systems across Australia was recognised clearly at the joint Ministers meeting. Ministers agreed on the need for the development of essential outcome indicators and associated data requirements for consideration at the November Special Premiers Conference.

The proposed reforms can be achieved only if there are corresponding changes to Commonwealth-State-Territory roles and financial arrangements. Ministers agreed that the Commonwealth and States must have joint involvement in strategic directions of policy, planning and evaluation of economic and equity issues. These include, for example, eligibility and user charging.

Funding options, including pooling, are to be explored under the national health and aged care strategy. The Commonwealth would have a leadership role, in conjunction with the States, in setting national policy objectives across the pool and the States would have primary responsibility for facilitating integrated service delivery.

I, together with my ministerial colleagues from the Commonwealth and States, issued a communique that noted that the most significant benefits would occur with the inclusion of the medical benefits schedule and the pharmaceutical benefits schedule in the pool. However, this should proceed only in the context of broader measures to change the balance of Commonwealth and State revenue raising capacities, or by developing other mechanisms for the Commonwealth, States and Territories to share the risks and responsibilities on a secure long-term basis. Ministers agreed that the administration of medical benefits and pharmaceutical benefits should continue to be a Commonwealth responsibility, as would at this stage nursing home residential care payments.

The various reports are, of course, preliminary to the development of recommendations to the Special Premiers Conference in November. The next step for the ACT is to outline these issues and our position to enable consultation with the community for input to discussions at the November conference. Copies of the various reports will be made available through my department.

MR TEMPORARY DEPUTY SPEAKER (Mr Jensen): Mr Berry, are you proposing a motion?

MR BERRY: If somebody wants to move that way - - -

MR TEMPORARY DEPUTY SPEAKER: Mr Berry, are you moving that the Assembly takes note of the paper or not?

MR BERRY: I am prepared to. I present the following paper:

> Health and Social Welfare Ministers - Meeting - Ministerial statement, 18 September 1991.

I move:

> That the Assembly takes note of the paper.

MR COLLAERY (3.29): Mr Temporary Deputy Speaker, this is a significant and welcome statement. On a more frivolous note, we did not get a report on Mr Berry's trip to the racing Ministers conference; but we all accept the fact that this is a far more vital and important issue, important though racing is.

The key words in this document appear where child-care is mentioned. It says that the ACT has adopted a preliminary position, which is to support the "broadbanding of child-care programs". Mr Berry went on to indicate that States should be enabled to have "clearer responsibilities for service delivery". The word "clearer" is highly significant. It does not commit the ACT, in its preliminary view, to tied grants.

I want to go further and indicate the somewhat ambiguous nature of the wording of this statement. Mr Berry says further on in his statement:

> Funding options, including pooling, are to be explored under the national health and aged care strategy. The Commonwealth would have a leadership role, in conjunction with the States, in setting national policy objectives across the pool and the States would have primary responsibility for facilitating integrated service delivery.

In anyone's terms, that is a further reinforcement of the new federalism espoused by Mr Hawke and Mr Greiner. There is much in Mr Berry's statement to indicate that there is under way an extremely important review for the future of our nation in these areas, an extremely important review in terms of the conscience of any ACT government.

We have heard that Ms Follett has stood alone on the issue of untying grants and that she has maintained a high profile, or a leading role, as one of her political admirers said. The fact was that the communique that Ms Follett signed on 30 July affirmed all government intentions to substantially reduce tied grants as a proportion of total Commonwealth grants and that the final options would be considered in November.

So, I join with Mr Berry in saying that it is very important that there be public consultation; that the community know exactly what is going on. But I hardly believe that that consultative process is aided by the type of ambiguity in the language of the statement that Mr Berry has mentioned. What we would like to know in this house is how the Follett Government views the new federalism. Does the Follett Government see it as a process of setting national policy goals and uniform standards, depending on the areas of endeavour, or does the Follett Government believe that there should be a general untying of grants and that in that process clearer responsibilities should be determined and goals set?

There is a big difference between the two. One is a laissez-faire approach with national goals and performance outcomes, and the other is an approach where the Commonwealth clearly retains the national conscience on these issues. So, I am not quite sure how we are going to have effective community consultation until the Follett Government gives a lead and indicates where it stands on the general issue.

The general issue is: After 90-odd years of federation and profound developments in the national conscience at the national level on welfare, health and associated concerns such as child-care, are we going to see a refragmentation back to immediate post-Federation days, with each State going its own way? Will this not lead ultimately to a breakdown, completely, of Commonwealth-State financial tradition, and will it not lead to a high degree of parochialism again in our nation on important issues such as this?

To give one example, the preliminary commitment the ACT has given on child-care is to "support the broadbanding of child-care programs, with minimal conditions to allow joint Commonwealth-State involvement in the development of national goals and performance outcomes, but to enable States to have a clearer responsibility for service delivery". That is an endorsement, so far as I interpret it, of a hands-off arrangement to allow States to have primary responsibility for service delivery. The word "clearer" is a euphemism. Mr Berry's Government has endorsed, really, easier handovers of national performance setting goals to the States.

Queensland is a classic example of this, and this is why the Left in this country, particularly, is so perturbed. You have only to go out and talk to the various lobbies in this community and ACTCOSS, the Women's Electoral Lobby, and all of the other organisations who have traditionally been sympathetic, to some extent, or empathetic with Labor's position on social justice, to know how deep the concern is in the community at the moment.

Queensland, on child-care, is a great example. They cannot possibly come up to any national goal on child-care. In old buildings throughout the State of Queensland there are child-care centres that do not fit the accepted standards, led, in part, by the ACT and South Australia, for child-care accommodation - standards on space, safety, hygiene and staffing ratios.

At the time I was the responsible Minister I heard my then colleague Anne Warner in Brisbane make clear that Queensland was back in the Dark Ages in this respect. That is understandable, given the years under Bjelke-Petersen government and the far-flung and difficult economic circumstances of many communities that have child-care responsibilities. I do not believe that we are attending our national conscience by handing child-care responsibility back to the Queensland Government, whether it is a Labor government, a Liberal government, a National Party government, a coalition or what.

The Commonwealth should retain the national drive on child-care. It should not go over. The preliminary support the Follett Government has given is wrong; it is fundamentally wrong. It should not have occurred. I formed a very strong view on that when I was at a meeting with Minister Staples, Anne Warner and other Ministers. Queensland, above all, has a dire situation that requires the Federal Government to drive them to reform. We know that Western Australia and Queensland are conservative States. They are conservative by nature and regardless of the political machine running their Treasury.

Mr Temporary Deputy Speaker, I am very concerned to see a further endorsement of the Premiers communique of 30 July. This is what Mr Berry's statement indicates: It is part of the general retreat by the national Australian Labor Party from social justice in our country. It says to communities isolated out in the never-never of our country, "Well, you are subject to your Treasury in Treasury Place, or wherever it is, in Melbourne, Brisbane or Perth". That is not correct. We have a comfortable, responsive situation in the Territory, with a high degree of public surveillance over Executive acts and public service decision making, but that does not apply in other States.

Federalism in some areas is fundamentally wrong. It will hand over social justice responsibility to ill-prepared, ill-equipped governments in States which have not to date shown a record in it. You do not judge the delivery of social justice in Queensland just by the government that was in power, like Bjelke-Petersen's; you judge it also by the culture of its bureaucracy and the culture of its local government responsiveness. The fact is that that culture has not developed in Queensland to date, even though they are recruiting - - -

Mr Connolly: Mr Temporary Deputy Speaker, I take the same point of order that you took while I was answering a question. It is the point of order about relevance. We are getting an interesting rendition of Mr Collaery's views of the ills of the Queensland Government. I wonder whether he might be directed, in accordance with your earlier point of order, to direct his remarks to the relevant issue.

MR TEMPORARY DEPUTY SPEAKER: Mr Connolly, thank you for your observation. We are not talking about answers to questions. Mr Collaery, I believe, is addressing an issue which has been raised in the Minister's statement. I believe that he is quite entitled to do so, and I will allow him to continue.

Mr Connolly: I take a point of order. Relevance to the matter of debate is the ACT's strategy. It may be that you are party colleagues, but I would have thought that you could direct him to relevance. He is giving us a rendition on his perceived ills of Queensland. It is quite irrelevant.

MR TEMPORARY DEPUTY SPEAKER: Mr Connolly, as I recall the ministerial statement, it referred to a joint meeting of Health and Social Welfare Ministers from around Australia. I do not think there is any problem with Mr Collaery addressing those issues as they relate to those factors. Please proceed, Mr Collaery.

Mr Connolly: I thought you might say that. We can agree to disagree.

MR COLLAERY: Thank you, Mr Temporary Deputy Speaker. The statement also said that Ministers agreed - - -

Mrs Grassby: What do you expect? It is his colleague on his feet.

MR TEMPORARY DEPUTY SPEAKER: Order! Mr Collaery, will you resume your seat. Mrs Grassby, I request that that be withdrawn.

Mrs Grassby: No, I do not think it should be withdrawn. You are. You allowed the same thing that was stopped in question time.

MR TEMPORARY DEPUTY SPEAKER: Mrs Grassby, please; I request that you withdraw. That is an imputation on the Chair, and I request that that be withdrawn.

Mrs Grassby: I withdraw it unqualifiedly, but I do not feel as though I did.

MR TEMPORARY DEPUTY SPEAKER: I request that it be withdrawn unqualifiedly.

Mrs Grassby: I withdraw unqualifiedly. Are you happy now?

MR TEMPORARY DEPUTY SPEAKER: Thank you, Mrs Grassby.

MR COLLAERY: The reason why I have ranged widely on this issue is that the Ministers agreed - these are Mr Berry's words - "that the reports should go forward to the Special Premiers Conference in November and that they should be made public". I think this is an appropriate opportunity for me to register our concern, the concern of the Residents Rally, about this process. It may well be that we have this uncomfortable, unpopular, lone position on this issue; but I assure you that wherever I go at the moment people on the Left approach me and applaud the stand that the Residents Rally is taking on this issue. I assure you of that, and I am not exaggerating.

I call upon the Follett Government to review the direction in which it is going on tied grants. I accept the sensibility of it in a number of other areas - I will not go into that - such as transport and the rest; but, in this area, Mr Berry's statement is cause for further concern in the community because, ambiguous though the wording is, it is a clear further endorsement of the Premiers communique of 30 July which the Chief Minister of this Territory should not have signed without putting a reservation to her signature.

She well knew the views of the Residents Rally. She is a minority leader and she should not have put her signature to that without properly consulting the political leaders in this chamber. I add that most of the other people present were minority leaders or shaky leaders, and we may well see some different decision making taken; but, regrettably, that might mean further accelerated moves towards federalism.

In other respects Mr Berry's statement outlines very important and very effective work that the national health strategy is doing. I commend Mr Berry for his role in that; I commend the public servants involved; I commend the current functional review on health and aged care. I was at the ACTCOTA general meeting the other night and can assure members that there is a lot of concern and a lot of interest on this issue. That side of the community is paying close attention to this issue. I commend Mr Berry's statement to them and I trust that they will read both his statement and my statement as attempts to come up with a better regime for all Australians.

MR HUMPHRIES (3.42): Mr Temporary Deputy Speaker, I want to contribute briefly to this debate. I originally was not going to say very much. I looked in vain through the statement to find something of much significance in it.

Mr Collaery: It is ambiguous.

MR HUMPHRIES: I do not think it is a particularly significant statement. Although I disagree with Mr Collaery on the point of the significance of the statement, I do certainly agree with his comment about the ambiguity of the document. I looked in this document for some clear indication of the Government's approach to the question of tied funding. I looked for some indication of where health and welfare Ministers, and Mr Berry as one of those Ministers, stood on those questions, and found difficulty in adducing any particular point of view, any particular approach to that issue. I assume that he adheres to the point of view taken by Ms Follett, but it is hard to draw that out of this document.

It is obviously important that the community be consulted about strategies such as this, but I do not know exactly how the Government intends to do that. Merely telling the Assembly that this document has been published and saying that papers tabled at the Ministers meeting are available at the Minister's department is not what I would have thought is the best way of getting broad community discussion about the issues that are raised here. It may be that a number of interest groups comment. It is one thing to say that those groups express their point of view; it is quite another to say that the broad community has input on these matters.

I think we need to think about the structure of the health and welfare debate in this community, about the way in which we fund services in those areas and the way in which governments generally provide for the funding of those services as between States and the Commonwealth. I do not think that any of that important debate is greatly contributed to by this statement. Nonetheless, it is helpful to have the Minister tell us what occurred at the Ministers meetings.

I recall that at the previous meeting of Ministers in May of this year, which I attended and Mr Collaery, I think, attended, respectively as the health and welfare Ministers at the time, a number of very interesting and important issues from the Territory's point of view were raised. One of those is particularly apposite to the debate we have had today on bed numbers. In answer to a question from Ms Maher in the Assembly, on 28 May I tabled documents which had been produced at the previous Health Ministers conferences, dealing with the decline in projected use of beds on a per head basis in the population, and those indicators, I think, were somewhat prophetic, given Mr Berry's Government's announcement in the budget yesterday. The point I am making is that, if you want to know where you read it first, look to the *Hansard* of 28 May.

It is valuable to have these reports, as I indicated, and I thank the Minister for having indicated what occurred at those meetings. I would have been even more interested to know what had happened at that meeting with respect to the debate about the $3.50 contribution by people attending doctors' surgeries towards the costs of providing a service to those patients. We have not heard what that debate was. Perhaps it will be forthcoming in the next ministerial statement.

Question resolved in the affirmative.

CROWN SUITS (AMENDMENT) BILL 1991

Debate resumed from 12 September 1991, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

MR COLLAERY (3.47): Unlike my last comment, I have very little to say. This is a useful tidying up Bill.

Mr Connolly: Oh!

MR COLLAERY: Mr Connolly is in a highly ironic mood at the moment. I do not want to joust with him. I do not think we want another Whalan-Collaery type of tradition starting in this Assembly. I will resist the temptation to see Mr Connolly in the shoes of his predecessor. I actually enjoyed the repartee with Mr Whalan, but with Mr Connolly I feel it is an unequal contest.

Mr Connolly: Go easy on me, Bernard.

Mrs Grassby: Oh!

MR COLLAERY: It is unbecoming, because, of course, we are both lawyers and, really, we should have our argument somewhere else. Lawyers, of course, as Mrs Grassby will never appreciate, are really the stuff of the earth. They really are.

The Crown Suits (Amendment) Bill is an ongoing law reform move by the Government's Law Reform Unit. It performs the useful task of making sure that there are not any unintended results as a result of decisions of the High Court such as those in Maguire v. Simpson and in the Evans Deakin case.

Briefly, as I recall it, Maguire v. Simpson involved the Commonwealth Trading Bank trying to welsh on its requirements and hide behind some legal technicalities to dodge some procedural aspects of a law suit. I trust that I am not being too cruel in saying that about the Commonwealth Trading Bank. In the Evans Deakin case, in fact, a similar principle arose and the court held that section 64 of the Commonwealth Judiciary Act was clearly applicable to procedural rights between parties as distinct from substantive rights between the parties. To sum that up simply, section 64 of the Judiciary Act said that, even if it is the State or the Commonwealth who is the litigant, they operate under the same rules of procedure as would subject to subject in court.

Gradually, the situation got away from that. It became more confusing after Maguire v. Simpson and the Evans Deakin Industries case. Then we had the recent Bropho case in Western Australia over the Swan Brewery site. That again raised interesting aspects of Crown immunity and the interpretation the courts have to put on statutes which untidy legislatures have not insisted be explicit in whether they bind the Crown in right of the Crown or not.

The upshot is that I support the Bill before the house. I do observe, however, that there are a lot of old Acts still on the books, as Mr Connolly knows, and they may well create immunities for the Crown that are not deserved; they are no longer deserved, particularly for those commercial entities of the Crown - if you can still use that term - who can still hide behind some immunities or some procedural or substantive advantages in litigation.

I hope that that situation is going to be reviewed progressively and that all of the statutes will be brought out, particularly those that set up commercial-type entities in the Territory, to make it absolutely clear that our citizens, when they are involved in a lawsuit with those commercial trading entities, do so on equal ground, on an equal footing, and, except for matters in the public interest, Crown immunities and protections and procedural advantages do not flow.

MR STEFANIAK (3.51): Just very briefly, the Liberal Party has no problems with this Bill.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (3.51), in reply: I am pleased that the Assembly is generally supportive of this minor, though important, Bill. I was tempted by Mr Collaery's remark that he would like to get into some repartee with me, but that he did not really think it was a fair contest and it was inappropriate because we were both lawyers. He then went on to make some comments about how nice lawyers are.

I noted in the quotes of the week in this week's *Bulletin* a comment by the South Australian Attorney-General, Chris Sumner, himself a lawyer of long standing, who made a rather interesting comment. He said, "Lawyers are necessary, but they basically produce nothing", which is perhaps a view shared by many in the community; but the process of law reform is a full production in its manner.

Mr Collaery made some suggestion in his remarks that the Government would do well to review a lot of the old Acts on the statute book that currently provide for Crown immunity that may not be necessary. If Mr Collaery had paid attention - dare I say, for the sake of opening the repartee again - during the recent ministerial statement that was made on the Bropho decision, he would know that the Government has announced its clear intention.

As well as making clear in every forthcoming Bill the position as to whether or not the Crown is bound, the Government has indicated clearly that, through the Law Reform Unit, it would be going through all the Acts on the books - and we see them lined up in front of us there - to progressively review the situation and, as part of an ongoing law reform process, do exactly what Mr Collaery is suggesting. So, it is, indeed, a sensible suggestion. It is not surprising that it is a sensible suggestion because it echoes what the Government has previously announced is in its program.

Mr Temporary Deputy Speaker, this Bill is a useful technical contribution to the law and I am pleased that all parties in the Assembly support it.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

SELF-GOVERNMENT (CONSEQUENTIAL AMENDMENTS) BILL 1991

Debate resumed from 12 September 1991, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

MR KAINE (Leader of the Opposition) (3.54): Mr Deputy Speaker, the Liberal Party, in opposition, has no difficulty with this Bill. It is merely a tidying up Bill correcting minor things that needed to be corrected in a whole series of other Acts, such as the Building Act 1972, the Protection of Lands Act 1937, the Real Property Act 1925, the Teaching Service Act 1972, and so on. It is merely, in most cases, to bring the terminology in those Acts into line with the fact that we are now a self-governing Territory. Some of the references in those Acts were anachronistic. This Bill does nothing but tidy them up, and we support it.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (3.55), in reply: Mr Deputy Speaker, I am pleased that the Opposition gives support to this Bill. It is, as the Leader of the Opposition says, merely a tidying up of the statute books. When self-government was established here there was a remarkably small group of public servants in the self-government unit of the then Department of Territories who basically drafted the self-government legislative package and piloted it through the Federal Parliament. It is extraordinary that they achieved so much, with so few resources, in the time available. A vast raft of ACT legislation was consequentially amended at the time to pick up references to self-government.

It is inevitable that there will still, from time to time, in the dark recesses of the statute books, be found references that are inappropriate, given that we are self-governing. This year's crop has been reaped here, with amendments to this range of Acts - the ACT Institute of Technical and Further Education Act, the Building Act, the Chiropractors Registration Act, the Health Professions Boards (Election) Act, the Protection of Lands Act, the Publications Control Act, the Real Property Act and the Teaching Service Act.

It is quite likely that over the next few years of self-government there will be found lurking somewhere in those red volumes in front of us further obscure pieces of legislation that have inappropriate references and they, too, will have to be tidied up and corrected. It is simply the tidying up and correction process that this Bill achieves, and I am pleased that it is supported by the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

CRIMES (OFFENCES AGAINST THE GOVERNMENT) (AMENDMENT) BILL 1991

Debate resumed from 12 September 1991, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

MR STEFANIAK (3.58): The Liberal Party supports this Bill. This is a quite important Bill. One of the most annoying problems in a court case is having to go through a great convoluted process of proving the obvious. Basically, this Bill will enable, by way of documentation, the Crown to prove that the Government, the Territory, the Territorial Government, owns certain properties, and, indeed, that certain properties are owned by certain statutory authorities within the Territory.

Unless a Bill such as this goes through, to prove that something actually belongs to the Territory, no matter how obvious it might be to a layman, quite often the Crown has to go through a quite convoluted process of calling witnesses and producing reams of documents to formally prove what, to everyone, is simply quite obvious.

Basically, by means of this Bill one document will be prima facie proof that property belongs to the ACT Government. If someone wants to dispute that, they will have to call evidence to do so. So, basically, this just formalises what is the obvious. All too often, certainly at times when I have prosecuted in the ACT courts, I have seen cases delayed and a lot of costs and trouble incurred by the Crown having to formally prove what, to everyone, is quite obvious. So, it is a very necessary Bill. I am amazed that it has taken this long to get it before this Assembly. It certainly is important and it will reduce the potential for quite a lot of time and money to be wasted needlessly. It is supported by the Liberal Party.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.00), in reply: The Government is pleased that this Bill has the support of the Assembly. As Mr Stefaniak said, when you are in a court proceeding it is often the bleeding obvious that is the hardest thing to prove. This Bill does deal with the obvious issue, when what is at stake is theft or damage to government property, and that is the ownership of government property.

Given the difficulties with the transition of the ACT from a collection of departments of state of the Commonwealth to a self-governing body politic, and given the problems of transfer of property that were identified very clearly by Justice Else-Mitchell in his report of a couple of years ago, it did seem appropriate to absolve the Territory from the requirement to be put to strict proof on the question of ownership of every individual item of property.

It is important to stress, though, in conclusion, as I stressed in introduction, that this is only a rebuttable presumption. This is not denying the citizen who may be charged with theft or damage to Commonwealth property their appropriate legal right to challenge the Territory's ownership of the property. That can still be litigated and debated in the court. It just means that, as a procedural matter, it will not be necessary for the Director of Public Prosecutions to go through the tedious process of proving that in each and every prosecution. It is a sensible measure which will save both time and money in the prosecution of offences against the ACT.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

PERSONAL EXPLANATION

DR KINLOCH: Would this be an appropriate time for me to make a personal explanation under standing order 46?

MR DEPUTY SPEAKER: If you claim to have been misrepresented, it would probably be a very appropriate time, Dr Kinloch.

DR KINLOCH: I refer to page 70 of the proof copy of *Hansard* for last night. I think there has been a misunderstanding, and I am sorry that there has been. I particularly would like Mrs Nolan to know what actually happened. I was well aware that Mrs Nolan was not going to be here this week. Indeed, we had been at a - - -

Mrs Nolan: Well, why did you use my name last week?

DR KINLOCH: If you read *Hansard* you will see that I did not do that. I was well aware that Mrs Nolan was not going to be here. Indeed, we had been at a committee meeting the previous week. Why I asked for the adjournment was that Mrs Nolan would not be here to vote. There had been no pairing

arrangement. So, if there was to be any hope at all of passing that legislation - after all, why would I want to support that legislation if I was not interested in passing it? - in order to avoid the violation of the laws of the other six States, it was very necessary for Mrs Nolan to be here. I thought I was doing Mrs Nolan a favour, in fact, because I know how strongly - - -

Mr Moore: I raise a point of order, Mr Deputy Speaker. The comment just made by Dr Kinloch about a violation of the rights of the other States is a reflection on a decision of the Assembly on a Bill being carried.

MR DEPUTY SPEAKER: You might be stretching it a bit there but, at any rate, yes; be careful, Dr Kinloch.

DR KINLOCH: I do not want to dwell on that, Mr Deputy Speaker. I do want Mrs Nolan to know that I thought I was doing the best for her in giving her a chance to vote on the matter, where clearly there would not have been a possibility of the Bill being passed. I knew her objection. I knew of her support for Mr Stevenson's Bill. Indeed, she voted again today for that Bill. She has had the chance today to do that. So, I think no apology on my part is called for. I was doing my best to make sure that we had as many people as possible who were in favour of Mr Stevenson's Bill.

ADJOURNMENT

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

> That the Assembly do now adjourn.

Legislation Program

MR HUMPHRIES (4.05): I just thought I should note that it is 4.05 pm. The Government last evening was insistent that there was business to be getting on with and suggested that, notwithstanding the adjournment of the four Bills dealing with guardianship, we should still sit last night in order to deal with other legislation. I would hope that the Deputy Chief Minister might indicate, when he rises to speak in this debate, what it was that we were going to debate last night if it was not the Bills that were, by general consent, agreed not to be going on for debate last night.

Legislation Program

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.05): I want to rebut the extraordinary observation by Mr Humphries. The problem that this Government has is that it is impossible to predict the extraordinary and erratic behaviour of members opposite. I think that yesterday we had circulating at one stage four amendments to one clause of one Bill.

Executive business for today was three complex legal, technical law reform issues. We could have expected that both the Liberal Party, as the official Opposition, and the Residents Rally, as the next largest group, may have wanted to contribute to the debate on those issues. As it was, on one of those, both parties spoke. On two others, the Residents Rally chose not to take part in the debate.

It was perfectly appropriate for the Government to assume that the detail stage and the in-principle stage of three Bills would take up the time of the Assembly. As it turned out, opposition members in the other groups chose not to enter into the debate on two of those Bills. It is hardly appropriate to suggest that the Government is not dishing up the business to the house. We have plenty of Bills for you to deal with.

We could have dealt with these Bills last night. As it turns out, no-one had any problems with these Bills. It was generally the view of all of you yesterday that it would be inappropriate for us to bring on those Bills last night. It now turns out that we could have dealt with them last night and other matters today. But we will persevere, despite the difficulties of the erratic and unpredictable behaviour opposite.

Legislation Program

MR JENSEN (4.07): I think it appropriate that there be some response to that interesting comment by Mr Connolly. The reason why the Residents Rally requested that those Bills be deferred and not brought up for debate yesterday was that it was not until 10 o'clock yesterday that the Residents Rally delivered copies of that legislation to the ACT Council on the Ageing. They had requested it of the Minister's office and had not received a reply. Also, at 11 o'clock on that day there was a meeting of community groups involved in that matter. They produced a document, which was circulating in the chamber, indicating that, while they supported the general concepts of the Bill, they had some problems with the structure.

On that basis, it was quite appropriate for the Assembly to adjourn debate on those Bills until a later date, so that the community could have time to consider them very carefully. After all, as everyone in this Assembly acknowledges, they are very important pieces of legislation. If we are going to have a government that claims that they are consultative, it is important that they do that and not just talk about it. That is what we seem to be getting from across the chamber here, more and more, rather than real community consultation. It is Clayton's consultation.

Mrs Nolan: It is plastic.

MR JENSEN: It is Clayton's consultation or plastic consultation, as my colleague Mrs Nolan has indicated. As far as I am concerned, Mr Deputy Speaker, it was quite appropriate, because of the slackness and idleness of the Government opposite, to defer those Bills until the community could conduct a proper assessment of them.

Legislation Program

MR KAINE (Leader of the Opposition) (4.09): My response to Mr Connolly's intemperate outburst is pretty much along the same lines as that of Mr Jensen. It is quite clear that this Government is in great trouble with its so-called legislative program. Almost all of the Bills that they have brought forward so far, if not all of them, were Bills that the Alliance Government started off months ago. Since they cannot get any of their own business up, they are using ours. They are going to run out of that reservoir pretty soon and they are going to have to start producing some of their own legislation.

To present legislation like the guardianship legislation and expect the Assembly to seriously debate it five days later is a nonsense. Mr Connolly knows it. If we had attempted to do that when we were in government, we would never have heard the end of it. They are forced to do this because they are not generating any business of their own. They have been in government now for over three months and they have not yet brought forward a decent Bill that comes out of their own energy and their own constructive thinking.

I am wondering how long it is going to be. I am wondering whether we are going to see one before we go into recess for the next election. I very much doubt that we will. The Bills that we have seen, as Mr Jensen says, show that this sham community consultation that the Labor Party keeps talking about is no more than that. It is just a sham.

Mr Jensen gave one example. The land tax Bill is another. We are expected to debate that. We tried to find out the ramifications of the land tax Bill. When we talked to people like the Real Estate Institute, we discovered that

the Real Estate Institute has been trying for weeks to talk to the Government on that Bill, and the Chief Minister and Treasurer has flatly refused even to acknowledge their correspondence - and she talks about consultation.

Ms Follett: I had lunch with them.

MR KAINE: This is the major real estate body in the Territory. This is your consultation process. You bring it up for debate, and then you start talking to people about it. Well, it is not good enough, because there are very serious ramifications of that Bill.

When Mr Connolly gets to his feet and starts talking about the performance of the Opposition in matters of this kind, my advice to him is, "Get your own act together, mate". When you can come into this chamber with legislation that you yourself have thought up and when you give the Opposition and the community time to think about it before you rush it into debate, trying to rip it through in case somebody finds the flaws in it, you will be clean. Then you can start talking about the Opposition. At the moment you are living in a glasshouse, and I would suggest that you do not chuck any rocks.

Conference Room

MR COLLAERY (4.12): I rise also to express a concern. Mr Deputy Speaker, the Residents Rally lives on the fifth floor, at the end, and we have noticed in the last several weeks that there is a newly furnished area opposite the lifts which appears to be used, to a great extent, exclusively for Labor Party functions. We have seen occasional press conferences there.

Mr Connolly: Rubbish!

Mr Wood: Lots of consultation.

MR COLLAERY: I would suggest to the members opposite that they do not rush this, or we will put them on notice of a question. I am merely raising it in the adjournment debate at the moment. It was furnished at a cost. It is being used for branch meetings. I have seen Labor Party members I know there, at branch meetings. I do not keep a book on it, but I can remember quite a few of the branch councillors' faces and I can put a fair level of proof to what I am saying.

I do not say necessarily that dedicating those resources for party purposes is wrong. I think we need a protocol in the chamber about those things and it will develop over self-government. But it is exclusive, and that is the thing that concerns me. It is an exclusive arrangement for the Labor Party, for ministerial launches and that. I saw Mr Dawson

introduced to the press. Mr Connolly did not have the courtesy to mention it to me, as a party leader and former Attorney, but I guess I knew that it was going to happen. I saw that happen there.

It would be interesting to know how much it cost the Labor Party to replace those Rally pink blinds in there with colours more of their choosing. I think they are bright red, aren't they, Mr Jensen?

Mr Jensen: Blue.

MR COLLAERY: They are blue. They have stolen the Liberal Party's peace sign. Well, they need peace for their meetings, because they do not have much of it in their meetings.

Mr Deputy Speaker, I think that sort of level of frivolity and the clinking of glasses contrasts very badly when I have a couple of part-time staff working their hearts out on the fifth floor. Yesterday one of my staff worked from eight until about six. I think those hours are very long for her in this chamber. I have said before how improper and how unfair is the refusal to staff the Rally on an equitable basis. How unfortunate it is for the staff of the Rally to see the frivolity in that place on days when they are working their hearts out because we are so short-staffed.

I think members will discern that there is a quite unpleasant relationship developing between the Rally and the Labor Party. There was a promise of a level of cooperation. It has been dashed by the double values of the party in the areas I have mentioned, that we are hearing around the Left of this town, and the double values on the fifth floor.

Legislation Program

MR MOORE (4.15): Mr Deputy Speaker, I sat here with some mirth, not so much about the last speech - that was just totally mirthful - but about the speeches beforehand about community consultation. It is ironic that members of the Rally and members of the Liberal Party, who sat there in the Alliance Government and basically ignored what anybody was saying and used their numbers to push things through, should now start berating the Labor Party about community consultation.

The situation was that we were bringing a Bill on much too quickly. In fact, I was the one who raised it in our meeting - I think Mr Berry will recall - on Friday afternoon. I said that this was inappropriate and that we ought not do it, but that I was prepared to compromise and debate the in-principle stage of the Bill. That is why I voted along those lines as well.

I checked with Peter Sutherland yesterday and I think Mr Collaery did as well. That meeting of peak groups circulated in the Assembly yesterday some comments about the guardianship legislation. They were quite happy for it to go through the in-principle stage only. That was the difference. In fact, Mr Connolly had accepted that it would go to the in-principle stage only, because that did not interfere with the consultation.

The reason I was prepared to agree to that particular Bill going to the in-principle stage was that there had been so much community consultation on it - this contrasts with what I said earlier - and due credit goes to Mr Collaery for that over nearly two years. There had already been a tremendous amount of consultation on the principles, the concepts, of that legislation. So, the in-principle stage of the debate could well have been carried on. Next sitting, no doubt, we will have a tremendous number of Bills to debate. The same with the sitting after that. I can see that there is going to be much more intense work for all of us. It was far better to get the in-principle stage of this guardianship legislation, on which basically we are all in agreement, out of the way. That is what I believe we should have done last night.

Conference Room

MS FOLLETT (Chief Minister and Treasurer) (4.18): I cannot let Mr Collaery's bizarre comments about the conference room on the fifth floor go unanswered. Mr Deputy Speaker, the fact of the matter is that the conference room on the fifth floor is used for a very wide variety of purposes. For Mr Collaery to say that it is exclusively for use by the Labor Party is simply untrue. The fact is that that conference room has been used for all sorts of government consultations. In fact, it has been used by Mr Humphries on one occasion for some media work.

The conference room has been used for meetings of a huge variety. The advisory committee is meeting in there this very afternoon. I and my colleagues have used that room for a range of meetings with community groups, with businesses and, indeed, with members of our own party. Mr Deputy Speaker, the Labor Party is a large community group and the branches of that party have every right to consult with their Government, as indeed does any other community group in the ACT, and they take advantage of it.

Unlike the Residents Rally and the Liberals, we actively encourage people to come in and see us. We are happy to see them on the fifth floor, and we have no intention of locking them out. We have no intention of obliging them to have secret passwords and to know the code to get through the security door, such as the Rally wishes to have installed, I believe. Mr Deputy Speaker, the consultation process is extremely important.

Mr Jensen: Prove it. Prove that statement.

MS FOLLETT: I have the Speaker's letter. Mr Deputy Speaker, there is a great deal to be gained from that kind of consultation. There is also, Mr Deputy Speaker, a legitimate use of that facility for other purposes.

Mr Collaery alluded to some happy meetings taking place last night, and that is true. I did use that room last night to put on a very modest function for Treasury officials and others who had worked on the budget, to thank them for their hard work and to express my appreciation of the extraordinarily long hours they had worked and the very good work they had done. I think that is entirely appropriate. I think everybody in this Assembly would agree that the work that has been put in has been of a very high standard indeed and has enabled the budget to go ahead smoothly. It has enabled all of you to have copies of all of the papers.

Mr Collaery: So, can we use it, too?

MS FOLLETT: Mr Deputy Speaker, Mr Collaery interjects and asks whether he could use the room, too. As far as I am concerned, yes. If you wish to make inquiries about when the room is vacant, you can do so. Mr Humphries has used it.

I would be absolutely delighted, Mr Deputy Speaker, if the Hare-Clark Independence Party were to use it, and to use it regularly. Use it regularly; I cannot wait. I really am awaiting with great anxiety their policies and their membership. I really want to see what they are going to do in order to get themselves elected at the next election. I also want to see whether Mr Duby, in setting up the Hare-Clark Independence Party, is going to be able to rope in with him all the other Hare-Clark adherents, like the Liberal Party, the Residents Rally and all the rest of them; whether he has really stolen your thunder and what you are going to do about it. So, if you want to talk about those issues in the fifth floor conference room, believe me, I would be absolutely delighted if you were to use that facility.

Higher Education Institutions

DR KINLOCH (4.22): Mr Deputy Speaker, we are at open go time, are we?

MR DEPUTY SPEAKER: Yes, that is right. You have five minutes.

DR KINLOCH: I want to thank the Chief Minister for those comments. We have had a time of frivolity and enjoyment, and I accept her generous offer. I hope that we will all be able to use that room and, indeed, have joint parties in that room of one kind or another.

Given the time of day and the few minutes left, I would like to grind a very small axe, if I may, Mr Deputy Speaker. It is in connection with a very small item. I think it would be improper for me to refer to the budget, would it not?

Mr Collaery: No, go on.

DR KINLOCH: I want to say a very positive and welcome thing about the budget. I refer to "Program Information and Estimates 1991-92", page 231. I am really very pleased to see there something in relation to Signadou College. If you look at that portion of the budget program you will see that, whereas last year Signadou cost us something like $593,000, that has been taken over by the Commonwealth at a comparable or slightly larger amount, which brings me to the little axe grinding I am anxious to do.

Often you hear in public discussion people referring to our two universities, meaning the ANU and the University of Canberra. I would like more and more - and I ask members of the Assembly to join me - to talk about our six universities, or at least five; five plus another tertiary institution. I discovered one of them only within the last few weeks.

There is, first of all, the ANU; then the University of Canberra; and now the Australian Catholic University, part of a larger whole around Australia. I was very impressed at a seminar on Monday night to hear some details of their work and their courses. It is not only Catholics who are on the faculty; there are non-Catholics as well as Catholics. Then there is the University of New South Wales, which we sometimes talk about as ADFA.

The one I was very interested to discover - others will no doubt have discovered it - is a small operation in Canberra by Monash University. It is the David Syme Management Education Centre program - a program from Monash University. It is in the technology park that some of us visited recently. It is very well worth visiting. I was very impressed by it. They have a similar campus in Kuala Lumpur in Malaysia.

The last, if you include this in the six, is another composite part of a larger whole, part of a group body that gives degrees, and that is St Mark's Institute of Theology, which has direct connections with similar institutions in Sydney. So, you could say that Canberra now has six, or at the very least five, institutes of higher education.

Question resolved in the affirmative.

Assembly adjourned at 4.26 pm