# DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

## HANSARD

22 October 1991

**Tuesday, 22 October 1991**

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**MR SPEAKER** (Mr Prowse) took the chair at 2.30 pm and read the prayer.

## QUESTIONS WITHOUT NOTICE

### Select Committee on Hospital Bed Numbers

**MR BERRY**: Mr Speaker, my question is directed to Mr Humphries, the chair of the Select Committee on Hospital Bed Numbers. Will he inform the Assembly of the committee's travel plans in relation to its inquiry? Is he aware of the cost of this travel?

**MR HUMPHRIES**: Mr Speaker, I am happy to return to my feet and establish that I can answer better than the person who has asked me a question. The committee, which was established last week in the Assembly, met this morning at 11.30 to discuss travel arrangements. It was urged upon the committee by its members that some travel was appropriate.

In particular, it was suggested that a trip to Tasmania, to examine hospital arrangements there, would be appropriate. I should record, Mr Speaker - I am sure she knows that this is coming - that that suggestion came from the ALP member of the committee. If members of the committee, particularly ALP members, wish to travel to Tasmania and if it is the view of the committee that it would profit from that journey, I have no hesitation in suggesting that we make that trip - obviously, provided that funds are available.

The committee has also expressed the desire to travel to Sydney - at considerably less expense, I might point out - and we would consider that matter in due course. However, we have not made any final decisions about where we will travel and when that will be.

### Hospital Services

**MR KAINE**: I would like to address a question to Mr Berry; we will see how good he is at answering it. I refer him to a letter that he, as Minister, sent to all his health staff earlier this year. I quote from it:

You will be acutely aware that, as Labor's Health spokesperson, I was critical of the Alliance Government's approach to providing hospital

> services. In particular, I have been unhappy about the maximum cost of the redevelopment, reduction of jobs, the Royal Canberra Hospital closure, long waiting lists for surgery, budget overruns.

Is it not the case, Mr Berry, that you have misled every single member of your staff in that, since you have been Minister, you have increased the number of jobs to be lost; you have proceeded with the closure of the Royal Canberra Hospital, about which you expressed so much concern; and you have increased the chances of long waiting lists, both by closing hospital beds and by extending the Christmas shutdown by an additional two weeks? Now let us see you answer one.

**MR BERRY**: I am glad to rise this week to an opportunity to respond on matters concerning our hospital system. It is particularly notable this week that the Liberal Opposition have taken their lead from the *Canberra Times.* They did not have an innovative idea of their own; they had to read the *Canberra Times* on Saturday morning to work out that questions needed to be asked on health. It is a sign of how ineffective the leader of the Liberals has been to date. It was quite correct of the *Canberra Times* to point out - - -

**Mr Kaine**: On a point of order, Mr Speaker: I suggest that the Minister address the question that was asked. As is always the case, he will talk for 10 minutes, but he will not answer the question.

**MR SPEAKER**: Order! Please proceed with the answer, Mr Berry.

**MR BERRY**: It demonstrated how ineffective the Liberal members of this Assembly are at coming up with an original idea on the issue of health. It also demonstrated, Mr Speaker, how ineffective - - -

**MR SPEAKER**: Order! Mr Berry, I would ask you to answer the question, if you would not mind.

**MR BERRY**: Indeed, sir, I will. Question time is only short, but all of these interruptions make it much shorter. Mr Kaine does not have an innovative thought in his head in relation to hospital issues. Now that he has taken the direction that was provided by the *Canberra Times,* I am happy to respond to what he has said. What Labor is about, Mr Speaker, is repairing the damage that was done to our public hospital system, by the Liberal members particularly.

**Mr Kaine**: On a point of order: This is typical. This Minister, once again, is going to refuse to answer the question. I repeat the question, Mr Speaker: Did he not mislead his staff in that letter that he wrote to them? Why do you not answer that part of it?

**MR SPEAKER**: Please proceed to the answer, Mr Berry?

**MR BERRY**: Mr Speaker, the people who have misled not only the staff of the ACT hospital system but also the people of the ACT have been the Liberal members, in the way that they have dealt with the provision of hospital services in the Territory. I know that they are sensitive about this, and they have good reason to be. When I came to office and conducted that urgently needed review of the public hospital system, it became clear to me that the Liberal members had something to be embarrassed about.

This is particularly relevant in relation to the question that Mr Kaine has asked. They had made sure that the consultation process which had been observed in the redevelopment phase of our hospital system was, in my view, dishonest because it had failed to consult staff at the contemplative stage.

**Mr Kaine**: On a point of order, Mr Speaker: Will this dishonest Minister answer the question.

**Mr Connolly**: On a point of order - - -

**Mr Kaine**: He used the word. It was acceptable then, and I am throwing it back in his face. He is a dishonest Minister. Will he please answer the question.

**MR SPEAKER**: Order! Mr Berry, I would ask you to address the question as quickly as you possibly can.

**Mr Berry**: On a point of order, Mr Speaker: I require that the word "dishonest" be withdrawn.

**Mr Kaine**: He had better withdraw it first, Mr Speaker.

**MR SPEAKER**: Yes, I would ask you both to withdraw it, if you would not mind. I think it is inappropriate to use this language.

**Mr Berry**: Mr Speaker, "the dishonest approach to consultation" is an accurate description.

**Mr Kaine**: If you do not withdraw it, I do not withdraw it; it is as simple as that.

**Mr Connolly**: On a point of order: I was actually on the point of order, and I assumed that you were calling Mr Kaine to order, appropriately. Mr Berry was referring to a dishonest policy - a broad, generic attack. Mr Kaine made a direct ad hominem attack on Mr Berry. He called him a "dishonest Minister".

**Mr Humphries:** If the shoe fits, wear it.

**Mr Connolly:** That surely is reducing the level of invective in this house to an inappropriate level. I would ask you to ask Mr Kaine to use a more appropriate form of language.

**MR SPEAKER**: Yes, I would ask both of you, under the circumstances, to withdraw it and let us get on with the debate.

**Mr Berry**: Mr Speaker, I will rise to my feet very quickly. I have no intention of withdrawing what I said in relation to the consultation policy which was endorsed by the former Government.

**Mr Kaine:** Mr Speaker, I will withdraw it; but Mr Berry carries on as usual. His behaviour should be noted for the record.

**MR SPEAKER**: Mr Berry, I will take cognisance of the fact that you were prepared to debate the issue with respect to withdrawal. I will review the *Hansard* to see exactly what you said. Please proceed.

**MR BERRY**: Mr Speaker, I should also put on the record that, during the course of the issue being discussed, Mr Humphries called out, "If the cap fits, wear it". That itself is an imputation that there is some dishonesty. Rather than labour the matter, I will pass over it; but it is just a matter for the record.

**MR SPEAKER**: Mr Berry, please draw your answer to an end.

**MR BERRY**: Mr Speaker, the staff of our hospital system know that Labor have not misled them. Labor have made it clear to hospital staff that the hospital system was left in a damaged state by the Alliance Government. They know that there are very serious issues which have to be addressed. They also know and understand that Labor will observe proper consultation processes as we work towards resolving the difficulties within our hospital system. So far, Mr Speaker, we have moved quickly to set up a consultation process which will accommodate the presentation of the views of the unions that represent health workers, as we move to repair the damage done to our hospital system.

Hospital workers know and understand that, regrettably, Labor has been forced to consider a reduction in some job areas, some of which, I should say, are related to the former Government's policies. But they also know and understand that Labor is committed to the provision of a quality, affordable, accessible public hospital system - something quite contrary to the commitment of the former Government. Therefore, Mr Speaker, to say that Labor is misleading its staff is an absolute outrage, and it ought to be withdrawn.

**MR KAINE**: I ask a supplementary question, Mr Speaker. Mr Berry, you said that you were unhappy about these things. Can I now assume that you were unhappy because you could not criticise the maximum costs of the redevelopment because you knew that you had to go about reducing jobs if

you got into government; that you were unhappy that the Royal Canberra Hospital closure had to go ahead and you knew it; and that you were unhappy because there were inevitably going to be surgery budget overruns and waiting lists, even if you were the Minister? Is that why you were unhappy?

**MR BERRY**: Mr Speaker, Mr Kaine has again tried a fairly shallow defence of the atrocity that was committed against our hospital system during the time that he was Chief Minister. He well knows that it was Labor's decision to establish the principal hospital at the Woden Valley site.

**Mr Stefaniak**: Are you claiming credit for that now? You did not like it a couple of years ago.

**MR BERRY**: And you supported it.

**Mr Jensen**: On a point of order, Mr Speaker: I refer to standing order 118(a) and (b). I thought answers had to be concise and should not debate the subject. Why do we not get on with question time?

**MR SPEAKER**: Mr Berry, please draw your answer to a conclusion.

**Mr Humphries**: I was nice and short. Why can't you be short?

**MR BERRY**: That is something that I physically cannot do. Mr Speaker, Labor supported and, indeed, announced the establishment of a principal hospital at the Woden Valley site. Labor also announced, in its initial decision, after consultation with the community and trade unions, that the Royal Canberra Hospital would stay open. But Labor is also a party of realists. We know and understand when the sort of damage which had been inflicted by the Alliance Government on our hospital system had gone so far as to require some urgent action to address the problems in our hospital system.

Mr Kaine cannot ignore the fact that Labor has made a responsible decision, despite all of the flaws in the Alliance Government's decision. Take, for example, the decision of the Alliance Government to establish a private hospital on the shores of Lake Ginninderra.

**Mr Humphries**: Mr Speaker, this has nothing whatever to do with the question that Mr Berry was asked. We have gone through almost half of question time, and almost all of it has been taken up by one non-answer from Mr Berry. Can we please desist?

**MR SPEAKER**: Order! I take your point of view.

**MR BERRY**: I will just close by saying that, thankfully, Labor came to office in June this year and we were able to conduct a review of that hospital system with the expert review that was put in place by Labor. We discovered the major flaw in the Alliance Government's hospital policy, and that was that there was no need for a private hospital on the shores of Lake Ginninderra. Had that Alliance Government been allowed to pursue that policy, the hospital system would have been in a worse state than it is currently.

## Police Ministers Conference

**MR COLLAERY**: Mr Speaker, my question is to the Attorney and Minister responsible for police affairs, Mr Connolly. I ask him whether it is true that he is not attending the Australian Police Ministers meeting in Melbourne tomorrow. If so, would he outline to the house the basis for his not representing the people of the ACT at that conference?

**MR CONNOLLY**: Mr Speaker, I will be very pleased to answer that question fully and comprehensively. Last year the Labor Party was very critical of the amount of money that was spent on travel by the Alliance Government, which seemed much more eager to leap on an aeroplane and travel to exotic destinations than it was to front up to the basic problems and confronting the Labor Party.

At the Estimates Committee last year we extracted the information that in the first six months of the Alliance Government they managed to spend something like $39,629 on travel, with which the first six months of the Labor Government will bear stark comparison. But, as Ms Follett said last year after asking some very detailed questions on notice, that was just a warm-up. In the second six months, 1 July to 5 December - I am not sure why that was the cut-off date, but it was last year - - -

**Mr Collaery**: On a point of order, Mr Speaker: We have had all these figures before. I ask the member whether he will simply answer the question.

**MR SPEAKER**: Thank you.

**Mr Collaery**: It is not new, Mr Speaker. He can provide that anywhere he likes. I want an answer to a short, sharp question.

**MR SPEAKER**: Order! Mr Collaery, you do not have the floor. That is not a valid point of order. The Minister can answer it in the manner in which he wishes. Please proceed - - -

**Mr Jensen**: On a point of order, Mr Speaker: Might I draw your attention to standing order 118(b), which says that the question should not be debated. Mr Connolly is attempting to debate it. I would suggest that we get a short answer and get on with it.

**MR SPEAKER**: Mr Connolly, I would ask you to draw your answer to an end. We have had two questions in 15 minutes.

**MR CONNOLLY**: I do not think the Residents Rally is happy with the answer. As I said, in the first six months it was $39,000, but that was just a warm-up lap. In the second six months it was $79,406.

Mr Speaker, the Labor Party then took the view that one had to look very carefully at ministerial travel. It is true that four Ministers in the Labor Government carry the portfolio load that some 20 or more Ministers may carry in a large State. We have taken the view that we should always be careful about which meetings we attend and do not attend. A firm view, shared by all Ministers in this Government, is that the primary duty of a Minister when the house is sitting is to be in the house. It is to be in the house to answer questions from the Opposition when and if they can get around to asking a question that draws a bit of blood. We have not seen one of those yet, but we should always be on stand-by.

The meeting tomorrow is an important one, and if it were not an Assembly sitting day I would probably have wished to attend. There is also, however, in Melbourne on the next day a National Crime Authority meeting and on the day after a meeting of the Standing Committee of Attorneys-General, which is one forum which, when in opposition, I always indicated it was appropriate for Ministers to attend. I am going down to Melbourne for one day - Friday, a non-sitting day. On Wednesday, a sitting day, I intend to be present in this chamber for question time. The meeting is on for only a couple of hours tomorrow afternoon from 2 o'clock; so, attending the meeting would mean that I would avoid question time, which I think is inappropriate because members should have the opportunity to ask questions.

The Australian Capital Territory is to be represented at that meeting by the Secretary to the Attorney-General's Department, Mr Hunt, and Commander Stoll of the Australian Federal Police. The purpose of the meeting, as members would well know, is to consider uniform national gun legislation. The ACT is the only jurisdiction that meets the criteria that the Commonwealth is requiring; that is, we are the only jurisdiction whose house is in order.

**Mr Kaine**: Yes, Alliance Government legislation.

**MR CONNOLLY**: That was legislation, Mr Kaine, which was drafted by the Labor Government, introduced as the first - - -

**Mr Stefaniak**: No, it was not. We withdrew it; we made it better; we introduced it.

**MR CONNOLLY**: It was miraculous legislation prepared in a matter of weeks and the first item introduced by the Alliance after the Christmas coup. Obviously, they had been busy little beavers over the couple of weeks of the break.

**Ms Follett**: They were all away.

**MR CONNOLLY**: If they had been in town and had drawn this legislation from nowhere. I have always acknowledged that that is bipartisan legislation, originally prepared by the Follett Government, carried on by the Alliance Government, commendably, as we have always said, and supported in this Assembly almost unanimously, with the exception of a basic-right-to-bear-arms-and-commit-massacres member sitting, somewhat strangely, to my left.

**MR SPEAKER**: Order! I would ask you to withdraw that last comment, Mr Connolly.

**MR CONNOLLY**: I said "a basic-right-to-bear-arms-and-commit-massacres". That is what happens when people have a basic right to bear automatic guns.

**MR SPEAKER**: But you referred it to a member, and I believe that that is inappropriate.

**MR CONNOLLY**: The member claims that there is a basic right to bear arms. I think that is a farcical view.

**MR SPEAKER**: I can agree with that, Mr Connolly. I ask you to withdraw it.

**MR CONNOLLY**: I withdraw the "massacres" comment.

**MR SPEAKER**: Thank you. I would ask you to resume your seat. I think you have answered the question. We have had three questions in question time.

**MR COLLAERY**: Mr Speaker, I have a supplementary question. I ask Mr Connolly to confirm that he is going to Melbourne, that it is not an air fare issue, and that he puts his decision to stay in the house tomorrow afternoon ahead of the interests of the people of this nation in having the ACT Weapons Act accepted as the model legislation in Australia - a job which he should do at the table in Melbourne as a Minister in this nation. He should not leave it for an official to do. He well knows from his attendance, if he has gone to any - - -

**MR SPEAKER**: You are debating the point, Mr Collaery.

**MR COLLAERY**: I want to ask him, Mr Speaker, why he is shirking his duty to the people of this country, he having in his hands a model Act.

**MR SPEAKER**: Order! You are debating the point.

**MR CONNOLLY**: Mr Speaker, the supposed supplementary question accused me of shirking my duties, so I will expect some indulgence in responding to that point. He obviously wanted to hear more.

Mr Speaker, I have written to Senator Tate and have sent a copy of the weapons legislation, proposing it as a model form. Moreover, the Chief Minister has written to the Prime Minister on this issue. The ACT weapons legislation has been circulated widely throughout the Commonwealth. The view of the ACT, which will be put effectively by a very senior police officer and the secretary to my department, will be that that ought to be a uniform model. As I said, the ACT is the only jurisdiction which fully complies.

The prime responsibility of a Minister is to be present in the house for question time, and members of this Assembly, wherever possible, seek to be here. Mr Collaery seems to think he is on some sort of a winner here because he is urging us to travel more. He is embarrassed about that extraordinary record that they achieved last year when this former Minister was in every trip that was going.

This Government is prudent and responsible about its travel budget. I fly economy whenever possible. I was faced with three ministerial meetings in Melbourne this week.

**Mr Duby**: And you have shirked them all.

**MR CONNOLLY**: One says, "You have shirked them all", assuming that I should be there all the time. The other one is saying, "You are going to one and not the other". They cannot even get their story straight amongst themselves. I will be attending the Standing Committee of Attorneys-General, which will not be meeting while this house is sitting. When this house is sitting, I will be present in it to take questions from the Opposition. But I earnestly hope that they have rather better questions to ask tomorrow.

## Children's Day Care Services Section - Staffing

**MS MAHER**: My question is also to the Minister for Housing and Community Services, Mr Connolly. Have you had a chance to review the evidence that you gave in the Estimates Committee in relation to the staffing levels of the licensing functions area of the children's services section? If so, do you now agree that you gave an assurance to the committee that there would be no staffing reductions in that area?

**MR CONNOLLY**: I have indeed reviewed it in the context of the repeated answers that have been given on staffing numbers, and I certainly read it as assuring that there would not be any need for an increase. My "No, no" comment, when it was put that there should be an increase, has been read by Ms Maher as an assurance that there will never be a reduction.

**Mr Duby**: You are misleading the house.

**Ms Follett**: On a point of order, Mr Speaker: Mr Duby made an interjection, which I believe was audible, that Mr Connolly has misled the house. I ask that he withdraw that.

**MR SPEAKER**: I would ask that you withdraw that, Mr Duby.

**Mr Duby**: Mr Speaker, as I said, I was claiming that Mr Connolly is misleading the house with this response. I shall certainly be examining the *Hansard* of both his answers, of last Thursday and today, to see whether a censure motion against this Minister should be introduced.

**MR SPEAKER**: That is a substantive motion and - - -

**Mr Duby**: I refuse to withdraw.

**MR SPEAKER**: Mr Duby, I would ask you to withdraw. If you want to make this claim against Mr Connolly, you can do it as a substantive motion, not in an interjection across the floor.

**Mr Duby**: Mr Connolly is clearly misleading this Assembly.

**MR SPEAKER**: Mr Duby, that is an opinion that I believe it is inappropriate to put before the house unless you raise it as a substantive motion, which you have not done, and I would ask you to withdraw it.

**Mr Duby**: Mr Speaker, I refuse.

**Mr Kaine:** Put a substantive motion.

**Mr Duby**: If that is the case, I shall put it as a substantive motion. This Minister has misled the house, both on Thursday and today.

**MR SPEAKER**: Order! I would ask you to withdraw it in the first instance. You can move a substantive motion if you wish to do that, but I would ask you to withdraw it in the circumstances that I have asked you to do so.

**Mr Humphries**: Mr Speaker, with respect, I think your ruling is incorrect. I might bring to your attention that the practice elsewhere is that, if an assertion of that kind is made and it will not be withdrawn, it should be debated. Mr Duby is prepared to put the motion to the

Assembly and debate it. That will determine whether what he has said, in the view of the Assembly, is true. If it is, there should be no withdrawal either before or after that debate takes place.

**Mr Berry**: Mr Speaker, on a point of order: Very clearly, standing order 202 comes into effect at this point. Mr Duby has persistently and wilfully refused to withdraw the offensive words, which is mentioned at standing order 202(c), and I call on you to name him.

**MR SPEAKER**: I overrule your point of order, Mr Humphries. I believe that my statement is correct, that Mr Duby has to withdraw it in the first instance and then move a substantive motion if he so wishes. So, I will give you the opportunity once again under the circumstances, Mr Duby, to withdraw the statement.

**Mr Duby**: Mr Speaker, given the advice that you have undoubtedly received from the Clerk, I will accept your ruling that that is the procedure that needs to be adopted. I withdraw, therefore, the claim that I have made - that Mr Connolly is misleading the house - and give notice that I shall move a motion censuring the Minister later this day.

**MR SPEAKER**: Thank you, Mr Duby. I also draw your attention to the fact that I took that decision before I spoke to the Clerk; I do not appreciate that imputation, either.

**MR CONNOLLY**: Mr Speaker, I think I was answering the question before that little tirade. The position is complicated by your ruling that was given last week - that it is inappropriate for members to refer to the transcript of what was said at that committee. If members of the Assembly seem to think that what was said there was a problem, given that the forum in which the supposedly offensive phrases were uttered is still in place - that is, the Estimates Committee that was sitting until last week - if they ask me to come back before the committee and explain my statements I will be more than happy to do so. We can do that there with the full freedom to refer to the transcripts and carry it on at an appropriate level.

**Mr Kaine**: On a point of order, Mr Speaker: I would like to know under what standing order the Minister is debating this question.

**MR CONNOLLY**: I am answering a question. My answer remains that I do not believe that I have misled anyone. The answer that has consistently been given on staff numbers in some detail was that there were ongoing talks about staff numbers; there was no need to increase staff numbers because a function had been increased. I do not see that there has been any misleading. If members have read it that way, it is their problem.

**MS MAHER**: I have a supplementary question. Can the Minister inform the house whether or not the licensing related functions in the children's day care services section will be losing positions from that area?

**Mr Berry**: On a point of order: This question was asked and answered last week.

**MR SPEAKER**: I am not aware of the answers there. I do not believe that it is an appropriate reason to stop the question.

**MR CONNOLLY**: The answer remains that which the Government is consistently giving, and that is that all administrative positions are being reviewed.

**Ms Maher**: Why don't you answer a question properly?

**MR CONNOLLY**: I am answering it. This is the person who accuses people of giving incorrect evidence; this is the person who conned her way into this Assembly by promising to abolish self-government; this is the No Self Government candidate, Ms Maher. It was the greatest con job committed, the greatest con job of a party that this town has ever seen!

**MR SPEAKER**: Order! Mr Connolly, resume your seat. Mr Connolly, I would ask you to withdraw that.

**Mr Connolly:** I am sorry, but I believe that that party was a con job on the community of Canberra.

**MR SPEAKER**: Mr Connolly!

**Mr Connolly:** I am sorry. It is unwithdrawable. She is in her third party in three years.

**Mr Duby**: On a point of order, Mr Speaker: At least Ms Maher won some votes, which is more than this man can say.

**MR SPEAKER**: Order! Mr Connolly, your interpretation of conning might be different from mine, but I think you should withdraw that statement that was levelled against the member.

**Mr Connolly**: Given your party history, Mr Speaker, I will withdraw the statement that that party was a con job.

**MR SPEAKER**: Mr Connolly, you are getting worse.

**Mr Collaery**: On a point of order, Mr Speaker: I ask that you direct this Minister to apologise to the house, not only to you, for his comments.

**MR SPEAKER**: Mr Connolly, I would ask you to refrain from putting yourself in the position where you might find yourself walking. Please refrain from that sort of action in the future.

**Mr Connolly**: I am not sure what to make of that threat, Mr Speaker.

**MR SPEAKER**: Order! In parliamentary terms, Mr Connolly, for your education that was a warning.

## Computerised Information on Constituents

**MR STEVENSON**: My question, which is directed to the Chief Minister, relates to the television program *Four Corners* on the ABC last night, which carried a story titled "Big Brother Down Under". The story revealed that politicians and political parties have been using telephone or written surveys to collect details on constituents' concerns to go in computer files. These computerised details were then used to create letters to constituents, mirroring those constituents' concerns. One example was of a woman who changed her intended vote after she received a letter mirroring a particular concern that she had about the environment, which was information taken from earlier contact with her. The deception was revealed when it was shown that the same politician was also sending standard letters of support to the other side as well - in this case, those in favour of logging. So, the first part of the question is: Has the Labor Party computerised personal replies from constituents, which link any of their concerns with their names and addresses? The second part is: Has the Labor Party used, or does it intend to use, this personal information to generate computerised letters to send to constituents suggesting the support of their concerns by the Labor Party?

**MR SPEAKER**: Mr Stevenson, I believe that that question is out of order. I do not believe that it is appropriate for the Chief Minister to answer that, unless she so desires.

**MS FOLLETT**: Mr Speaker, it is the only reasonable question that we have had all day. I had anticipated it being asked, so I am happy to respond to it. Like other members, I share Mr Stevenson's concern about the *Four Corners* program on computer databases. I have been very concerned about possible breaches of privacy, the extent of data gathering in our society generally, and the abuse, whether actual or potential, of personal information.

Mr Speaker, I can confirm that my party makes use of computerised name and address information from the electoral roll, and that information is provided by the Australian Electoral Commission under the provisions of the ACT Electoral Act. It was used by the Labor Party to personalise letters sent to voters in the last ACT election campaign and on a very small handful of occasions since.

But members who saw the *Four Corners* program would be aware of the allegation that political information has been obtained from voters who have been misled about its intended use. I can certainly assure the Assembly that there has been no invasion of ACT voters' privacy by the Labor Party and that we have certainly not surreptitiously obtained personal information on voters.

**Mr Kaine**: Not by asking questions with their rates notices?

**MS FOLLETT**: Mr Kaine has referred to the rates notices. I presume that he refers to the questionnaire that went out with that. That was an anonymous questionnaire, Mr Kaine - through you, Mr Speaker.

In keeping with our approach to open and consultative government, my party believes that it is appropriate to use the latest technology to communicate with the community, whether that is to inform them of our activities and policies or to seek their input and their views. But I state again that we have not made, nor would we make, use of any surreptitious methods to obtain personal information on voters.

**MR STEVENSON**: I ask a supplementary question. I am not quite sure what the word "surreptitious" related to. The question was specifically: Were there any concerns of constituents which had been gathered and which were linked to names and addresses on computer? Had any of those concerns been used in promotional activities?

**MS FOLLETT**: Not that I am aware of, Mr Speaker. As I explained, the computer program that we have is taken from the ACT electoral roll, and it is taken quite specifically under the provisions of the ACT Electoral Act.

## Ambulance Service - Emergency Calls

**MRS GRASSBY**: My question is to the Minister for Health. Will he inform the Assembly of the new arrangements for the recording of emergency calls to the ACT Ambulance Service?

**MR BERRY**: This is a very important issue that has been highlighted in the media in recent times. It arises from the failure of the former Government to provide adequate resources to the ACT Ambulance Service, which went through a torrid time with the Alliance Government. On tens of occasions the ACT Ambulance Service could not provide the agreed number of ambulances - that is, four.

**Mr Kaine:** Tens of occasions?

**MR BERRY:** Dozens. Since then, of course, there has been significant pressure within the ACT Ambulance Service to ensure that there are four ambulances available at all times throughout the ACT. That has been a very difficult job for the Government. It has required significant work to ensure that the Ambulance Service is gradually brought up to speed.

Another issue has been the provision of appropriate recording equipment for the receipt of emergency calls and the dispatch of resources to emergencies. Mr Speaker, shortly after coming to government, I became aware that the aged recording equipment within the Ambulance Service had failed. That came to my attention as a result of a complaint by a member of the community who had alleged that he required an ambulance for somebody who was in trouble.

These allegations could not be confirmed because of the failure of the aged recording equipment which had received no attention from the Alliance Government. This absence of mind and ignorance of duty to the people of Canberra not only had resulted in the community member not being able to satisfy his complaint by way of some sort of record but also prevented the ambulance officer concerned having a defence which could rule out any question as to his ability to provide a first-class service to the community.

A subsequent investigation, Mr Speaker, showed that there was no way of determining the matter without an appropriate record being held in the Ambulance Service. The officer concerned was a longstanding officer who had observed a longstanding commitment to the provision of ambulance services in the Territory.

That inquiry prompted the service to move more quickly towards the provision of adequate recording equipment. Subsequently, funding was approved to pay for the new recording equipment. That amounted to around $38,000, as I understand it. I am happy to say that that equipment has now been installed, and in future the Ambulance Service will be in a position to record and recover information from that machine not only to satisfy the complaints of the community, if they have some, but also to defend ambulance officers against whom allegations have been made.

I think that is a refreshing new start for the ACT Ambulance Service. I can say to this Assembly that Labor, while in office, will ensure that the replacement for that new machine will be properly planned. The real problem with this whole episode was that the replacement for the old machine was not properly planned. The former Minister, Mr Humphries, has to take responsibility for that and for all of the concerns that have been expressed by the community because of the failure of that equipment.

Mr Speaker, the failed former Minister for Health has indeed a burden to bear in relation to his management of ambulance services, and that not only is a great shame on himself but also has impacted heavily on the ACT community because there had been a loss of confidence in the Ambulance Service. I am pleased to say that that confidence is now returning and the ACT Ambulance Service is in the early stages of a full recovery from the impact of the Alliance Government.

I will also say, Mr Speaker, that we are closely monitoring the workload of the ACT Ambulance Service to determine whether and when additional ambulances might be required. We have heard Mr Humphries crying out that Labor had made some promise in the past. Clearly, Labor does not make knee-jerk decisions like the former Government; Labor makes decisions which are well researched.

**Mr Kaine**: On a point of order, Mr Speaker: This Minister is really turning question time into a travesty. I have been listening to this answer now for six minutes, and if that is not a ministerial statement I do not know what is. It was a dorothy dix question that the Minister has taken six minutes to answer, but he has not finished yet. I think it is about time this question time was devoted to the purpose for which it was intended - answering questions, not ministerial statements.

**MR BERRY**: Indeed, and that is what I am doing. I think Mr Kaine would now admit - - -

**MR SPEAKER**: Order, Mr Berry! I was watching the time. I would have pulled the Minister up some time before; but I assumed that, as it is now 3.12 pm, the Chief Minister was about to call it to an end anyway. Mr Berry, please proceed.

**MR BERRY**: Mr Speaker, I have to say that, now that Mr Kaine has sat there riveted while I answered this question, he is far better informed than he was when I started.

## Public Hospital Beds

**MR STEFANIAK**: My question is to Mr Berry again, as Minister for Health. The *Canberra Times* of 4 July this year carried a report which quoted him as saying:

> The conservatives are desperate to close public hospital beds and force people into the private sector - we want to provide more public hospital beds.

Can he prove that there were fewer public hospital beds available at the end of the Alliance Government's term in office than at the beginning? Given the fact that the Labor Government is reducing the number of both private and public beds, does this not make your Government even more conservative than the Alliance?

**MR BERRY**: It seems that this is part of the concerted attack which was flagged by the *Canberra Times.* Again there is no blood dripping, and there will not be any at the end of my answer. What has been made clear to the Estimates Committee is that Labor is about providing quality public hospital services. I have made myself available to the Estimates Committee, where the Minister and other members of the Assembly could ask any number of questions about hospital services in the ACT.

**Mr Humphries**: I am not the Minister any more, Wayne.

**MR BERRY**: With respect, that was an oversight, and I will withdraw that unequivocally. He is not the Minister, and he will never be again. The former Minister, I should say, Mr Speaker, had all of the opportunities in the world to ask questions about the hospital system and, dare I say it, bed numbers.

**Mr Humphries**: Mr Speaker, I know that we have been having a good old laugh at this, but it really is not funny to see question time wasted in this fashion. Mr Stefaniak's question was quite specific and has not yet, in the first 2 or 3 minutes of this answer, even been touched upon by Mr Berry. I ask you, please, to let this question time flow in such a way that we can get to the meat of some answers, if any, being offered by the Ministers.

**MR SPEAKER**: Thank you, Mr Humphries. Mr Berry, would you draw your answer to a conclusion.

**MR BERRY**: If Mr Stefaniak would like to put to me the answer that he wants, I will check it and tell him whether I agree with it.

**MR SPEAKER**: Order! Please proceed.

**MR BERRY**: The members opposite might well get agitated about Ministers responding fully to questions that have been asked in this place. No, there is no question, Mr Stefaniak, about the issue of conservatism. You have it all; you have it stitched up; you have the market cornered.

**Mr Stefaniak**: Let us talk about the hospitals and the beds, Wayne.

**MR BERRY**: And now what we will talk about is the provision of public hospital services.

**Mr Humphries**: What about beds, Wayne?

**MR BERRY**: And how they will be provided in beds in our hospitals, so that we get the focus back on the question, so that the complaints and whingeing will stop.

**MR SPEAKER**: Please get to it, Mr Berry.

**MR BERRY**: I have made available to Mr Humphries a range of options announced by the Hospital Board, the board that he initiated, as to how they will deal with Labor's budget. The board have said to me that they can live within the budget which has been set. They have provided a range of options which will result in the delivery of better hospital services, not only in the next year. We are going through a difficult period in the provision of hospital services in the Territory because of the reparation that has to be made to the hospital system.

Mr Speaker, Mr Stefaniak talks about bed numbers. It needs to be made clear to him on the issue of beds that the keynote of this budget is improved efficiency, not the provision of private hospital beds, as it was under Mr Humphries. We are pursuing a disciplined approach to financial management, while protecting Labor's fundamental commitment to social justice. That is something to which the other side never pretended they had any commitment in the past.

The health budget has been constructed in accordance with these principles. That would be foreign to Mr Stefaniak. There will be a reduced requirement for some services as we achieve increased efficiencies through such measures as the introduction of an integrated day surgery unit, the introduction of initial antenatal sessions to reduce antenatal admissions, reduced average length of stay, in line with national trends, and greater use of a pre-admission clinic.

It is wrong to focus on the number of beds which, according to Mr Stefaniak, might be cut. This is about the provision of better services within the resources available in the public hospital system. This is a new approach, Mr Speaker, to the provision of hospital services in the ACT, and it is something that the Liberal members would not understand. But they will have to come to terms with it because at the end of the day our public hospital system will be in a much better condition, irrespective of the damage that has been caused by these people opposite, when Labor gets through with the process.

**Mr Kaine**: On a point of order, Mr Speaker: I must again draw your attention to standing order 118. The Minister has again proved that this question time is a nonsense, because he refuses to answer the question. Mr Speaker, I specifically draw your attention to the last part of standing order 118, which says that you may direct a member

to terminate an answer if he has had plenty of time to answer it and he has not done so. I submit that that has happened at least four times today with this pseudo-Minister who will not, under any circumstances, answer a question.

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

**MR SPEAKER**: I will just point out to members that answers to questions on the hill and in other places take much longer than is allowed to happen here. I usually allow seven minutes before I ask the member to sit. This is my personal rule. If members would like to vary that and put it in the standing orders that the Ministers' answers should be shorter than that, please do so.

## Road Safety - Rabaul Lane

**MR CONNOLLY**: Mr Speaker, on 10 September, Mr Stevenson asked me about traffic safety along Rabaul Lane, following a recent low speed head-on collision between two vehicles. I took that question on notice, and I now will give an answer.

A review of the accident history of Rabaul Lane for the period 1985 to the end of 1990 indicated 11 reported accidents. Two of these accidents involved parked vehicles and three involved vehicles reversing, but there were no head-on collisions. Six of those accidents occurred in 1990.

The options available to improve traffic safety in Rabaul Lane are limited if full access to Rabaul Lane from Nangari Street and Akuna Street is to be maintained, but the restriction of parking on both sides of the road is being investigated. The removal of four government parking spaces and a reduction in the length of the loading zone in Rabaul Lane are options currently being considered. The utilisation of the loading zone will be monitored and discussions with the Transport Workers Union will be undertaken, with a view to reducing the length of the loading zone in that street.

## Handyhelp Home Help Service

**MR CONNOLLY**: I am in a position to answer a question that was asked, on 17 October, by Dr Kinloch, who said that it had been alleged by a client of the Handyhelp home help service that the home help service had closed its books due to a lack of money. He asked whether I could comment.

The answer to Dr Kinloch's question is as follows: Under the home and community care program, the home help service received a grant of $1,050,644 in 1990-91. It will receive

the same grant in 1991-92, plus indexation of 2.9 per cent, which is approximately $30,000. Additional funding received by the home help service over the past two years has been used to keep pace with determinations made under the Community Services (Home Care) (ACT) Award 1988.

The home help service's committee of management has been advised that, other than the additional funds for indexation, with the difficult financial situation facing the ACT there will be no funds for new services this year. As a result, the management committee decided, on 15 October 1991, to maintain the total hours provided to clients at 2,700 per fortnight. While home help will not be able to expand the service, current clients will be reassessed and new clients will go on a waiting list. Because the number of existing clients changes and because the waiting list has been in operation for such a short time, it is difficult to determine how long applicants will have to wait for assistance.

## INTERIM PLANNING ACT - VARIATIONS TO THE TERRITORY PLAN
### Paper

**MR WOOD** (Minister for Education and the Arts and Minister for the Environment, Land and Planning): Mr Speaker, I table the variation to the Territory Plan for block 1, section 12, Forrest - that is, the Canberra Bowling Club - pursuant to section 22 of the Interim Planning Act 1991.

## NATIONAL COMMITTEE ON VIOLENCE - RESPONSE TO REPORT
### Ministerial Statement and Paper

**MS FOLLETT** (Chief Minister and Treasurer), by leave: Mr Speaker, I would like to take this opportunity to present to the Legislative Assembly the response of the ACT Government to the report of the National Committee on Violence, entitled "Violence: Directions for Australia". The National Committee on Violence was established through joint agreement between the Prime Minister, State Premiers, and the Chief Minister of the Northern Territory at talks held in December 1987 on the subject of gun control. These talks came about in response to the nation's horror at the tragic Hoddle Street and Queen Street massacres in Melbourne earlier that year.

The committee was charged with the broad and onerous task of addressing the prevention and control of violence in modern-day Australian society. To reach the point where some workable solutions could be charted, the committee also questioned widely held conceptions about the incidence and prevalence of violence in Australia, and, importantly, probed the causes of that violence.

The report of the National Committee on Violence, entitled "Violence: Directions for Australia", was presented to governments in early 1990. The report presented a comprehensive view of present violence patterns in Australia. Many of the findings confirmed widely held assumptions about violence, while some of the findings dispelled commonly held misconceptions. The report's 138 recommendations for the control and prevention of violence in our community bear on many of our government services and have, over the past several months, presented a considerable task for Federal, State and Territory governments. Tragically, the recent Strathfield shootings have again highlighted the need for governments and the community to focus on the recommendations of the report.

The report clearly indicated that violent behaviour defies simplistic explanation and that it generally results from a combination of factors. The report identified the family as the training ground for aggression but also highlighted the strong evidence that a loving and secure family background can actually overcome the individual's predisposition to violence. Factors relating to poverty, cultural disintegration, gender inequality and substance abuse were also examined, as was the regrettable tendency of Australian culture to condone and legitimise violence on the sporting field and in the media, the home and schools.

As the National Committee on Violence came about as a result of talks on gun control, it is perhaps fitting that the cornerstone of the Government's response rests with the ACT's record in that arena. In this regard, the contribution and support of all members of this Assembly, and of the previous Government in particular, to initiate reforms is recognised. The recently enacted Weapons Act 1991 gives effect to the committee's recommendations on weapons control to the greatest extent possible. The Weapons Act evolved following long and detailed consultations with the community and special interest groups such as sporting associations.

It cannot be said that the controls contained in the Weapons Act will guarantee that events such as those Melbourne multiple shootings in 1987 and the more recent Strathfield massacre this year will not occur again. What can be said, however, is that the Act will assist in reducing the likelihood of such events recurring.

Key points of the legislation, which are discussed in detail in responses to recommendations 54 to 58, include: The prohibition of all automatic weapons and the restriction of semi-automatic weapons and ammunition used for other than approved weapons; extensive registration and licensing procedures; and the capacity for the police to enter, search premises and seize weapons. Thus, the Weapons Act seeks not only to reduce the number of unnecessary firearms in our community but also to state in

clear terms, for the benefit of potential gun owners and the licensing authority, the circumstances under which persons who perceive that they have a legitimate need for a firearm may acquire, possess and use that firearm.

The Government fully supports the principle espoused in the legislation but also recognises the need for going further and not becoming complacent about firearm control simply because of the introduction of such comprehensive legislation. There is still room for improvement, and this Government is committed to making every endeavour to eliminate violence from our society.

The ACT is at the forefront of having the most comprehensive gun laws in Australia, and the Weapons Act would provide the basis for, and was in fact originally developed as, model national legislation. In this context, I have written to Senator Tate, in his role as chairman of the Australian Police Ministers Council, and the Prime Minister about the issue of firearm control, which is the basis of the council's agenda for its meeting on 23 October 1991. Uniform national firearm legislation will be further addressed at the November Special Premiers Conference.

The Government also recognises that the Weapons Act alone can go only part of the way to making ours a less violent society. Over recent months debate has occurred - in particular, in the local print media - about the protection afforded to people who find themselves in threatening domestic situations. Indeed, domestic violence is another important issue taken up by the committee's report. The Government is committed to doing whatever it reasonably can to ensure the protection of such persons.

To this end, relevant amendments were made to the Domestic Violence Act 1986 and the Magistrates Court Act 1930 to empower a magistrate, when granting a protection or restraining order, or an interim order, to order the seizure and detention of any firearms in the respondent's possession.

The Weapons Act further cements these protections by specifically requiring the registrar, prior to granting a licence, to have regard to whether a protection order or restraining order has been made in the past eight years against the applicant for a licence or whether an interim order is in force against such a person when considering the application. These same factors arise when considering whether to cancel or suspend a licence. If a protection order or restraining order is in force, an application for a licence must be rejected.

Further, the Domestic Violence Act has been amended to extend the categories of persons who may apply for protection orders to include children, grandparents, other immediate relations and, regardless of relationship, all members of the same household. The ACT's domestic violence legislation is well supported by the excellent services in

our community in the domestic violence area. The ACT is indeed fortunate in the quality and range of services that it has available in this most difficult area and in the dedicated and capable staff who run these services.

The Domestic Violence Crisis Service is arguably the linchpin of the government strategy for dealing with domestic violence. Its primary functions are to provide crisis intervention, support and assistance in the home of victims, and information about and referrals to legal, medical, counselling and other appropriate services.

The police have also developed working arrangements to deal quickly and effectively with domestic violence incidents. A major contributor to the police's effectiveness in what are recognised to be particularly dangerous situations is the close working arrangement that they have with the Domestic Violence Crisis Service, both in respect of training and education and in the actual handling of incidents.

The role of other agencies, too, must be acknowledged - the rapid and flexible response of the Housing Trust in providing dwellings to women fleeing domestic violence, the crisis accommodation services and the range of counselling and practical assistance provided by both community and government agencies.

The safeguards contained in the Domestic Violence Act have led to the amendment of the Magistrates Court Act to enable protection orders similar to those under the Domestic Violence Act to be issued for persons at risk of violence in non-domestic circumstances. Thus, in the ACT, court-mandated protection is now available to cover every susceptible member of the community.

The recommendations of the committee with regard to domestic violence are very much a reflection of the current situation in the ACT, and the ACT leads the country in measures designed to eliminate domestic violence. This Government recognises, however, that there are still shortcomings in the administration of the law, which must be addressed.

To this end, the Government announced in September this year the establishment of a broad-ranging review of domestic violence laws by the Community Law Reform Committee. The committee has been given wide terms of reference to ensure that all community concerns are addressed, with full community participation in the review process. Overall, the report's recommendations are wide ranging, and many of the initiatives undertaken in the ACT over recent months dovetail closely with the intent and principles espoused by the report.

I will highlight some of these initiatives, all of which are discussed in the body of the response. The first is the just mentioned review of domestic violence laws by the Community Law Reform Committee - recommendations 63 to 68. Legislation establishing the Office of the Community Advocate was passed by the ACT Legislative Assembly on 17 October 1991. The office will provide another level of safeguard to the vulnerable in our community. That relates to recommendation 23.

There is the network of 24-hour crisis services operating in the ACT, which has recently been supplemented by a 24-hour mental health crisis service; that relates to recommendation 26. The inquiry into behavioural disturbance amongst young people by the Legislative Assembly Standing Committee on Social Policy, which is currently under way, will be considering the identification and management of behaviourally disturbed children, which relates to recommendation 41.

The current review into juvenile justice and adult corrections will examine matters raised in recommendations 92 and 93. The ACT Community Law Reform Committee is presently looking into victims of crime and has issued a public discussion paper on this matter; this relates to recommendations 13 and 60.

The establishment of the Conflict Resolution Service to provide alternative dispute settlement services to the community, and the extension of the service to include an adolescent mediation service, relate to recommendation 91. Finally, the efforts of the police to provide an effective community policing service relate to recommendation 72.

Mr Speaker, the Government is heartened to note that the committee does not see the development of a less violent society as the sole responsibility of governments. The Government shares the view that it is the responsibility of each and every one of us to make our contribution to a less violent society. Our communities are made up of individuals and families, and it is how we interrelate in those units that determines the society that we build. Through our education system, our family support programs and our community services, the Government can make a significant contribution in this area.

The committee also recognises that there are forces operating within our society which have enormous power to direct, influence and control our behaviours. In this regard, the Government is pleased to note that a number of recommendations have been directed to the media and sporting organisations, amongst others.

The Government believes that its contribution to a less violent society can best be made through ensuring that an appropriate legislative and policy framework is in place and that adequate and well-targeted services exist and are further developed to give the best possible effect to these laws and policies.

The Government is also firmly of the view that an ongoing commitment is needed to continue to address violence in our society. For this reason an implementation committee of senior officers from key government agencies has been established to monitor progress on implementing the recommendations. This committee will report annually to government and make recommendations as appropriate.

The goal of a less violent society is an important and achievable one, requiring the commitment of governments at all levels, the private sector and the individual. Mr Speaker, the contribution of the National Committee on Violence to signposting the ways of reaching this goal is to be commended. I present the following papers:

Violence - National Committee - Report - Government response.
Ministerial statement, 22 October 1991.

I move:

That the Assembly takes note of the papers.

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

## SUBORDINATE LEGISLATION AND COMMENCEMENT PROVISIONS
### Papers

**MR BERRY** (Deputy Chief Minister): Pursuant to section 6 of the Subordinate Laws Act 1989, I present subordinate legislation in accordance with the schedule of gazettal notices for determinations, regulations and notice of commencement, as follows:

Building Act - Determination of fees - No. 97 of 1991 (S118, dated 18 October 1991).
Credit Act - Credit Regulations (Amendment) - No. 25 of 1991 (S115, dated 16 October 1991).
Director of Public Prosecutions Act - Director of Public Prosecutions Regulations - No. 24 of 1991 (S115, dated 16 October 1991).
Legal Practitioners (Amendment) Act - Notice of commencement of provisions (S113, dated 10 October 1991).
Public Place Names Act - Determination - No. 96 of 1991 (S116, dated 18 October 1991).

## MENTAL HEALTH WEEK
## Ministerial Statement

**MR BERRY** (Minister for Health and Minister for Sport), by leave: Mental Health Week is now an established event on the health calendar, and this year its theme is "Towards a gentler society".

This Government is particularly concerned about the social and economic disadvantages experienced by people with mental illness and the difficulties that the mentally ill experience with such fundamental rights as access to services, access to housing and access to employment. We see a "gentler society" encompassing the concept of social justice, with people with a mental illness having the right to participate in the decisions which affect their lives.

I would like to outline some of the initiatives that the Board of Health have in place for the treatment of the mentally ill and to achieve a "gentler society", at least for those suffering from mental illness. The Government acknowledges the needs of the mentally ill, and we will continue to do more as economic circumstances allow. The Government has maintained funding for mental health services at approximately the same level as 1990-91 - that is, $5.1m. Funding was also made available in the capital works program for the relocation of the Southside Day Centre.

Recently, Mr Speaker, I had the pleasure of opening the new psychiatry unit at Woden Valley Hospital. That occasion gave staff, members of community organisations and the general public an opportunity to view the new facility. While the previous ward had been a very busy unit, it was never designed for psychiatric purposes. On the other hand, the new unit is very special. It was specifically designed for providing psychiatric care and treatment in a non-institutional atmosphere and environment.

Furthermore, it was constructed in nine months, on budget, for $3.4m. Accommodating 40 beds, with two physically discrete wards for the better care of different types of patient, each ward has its own courtyard and rooms for dining, group and therapeutic activities. There is adequate space for clinical and support staff, and space is available for the possible relocation of the after hours crisis team. I am proud to say, Mr Speaker, that the ACT has one of the best in-patient psychiatry units in Australia.

Another service now available to the mentally ill in the ACT is the service provided by the after hours crisis team. This team is located at Woden Valley Hospital and, as its name implies, provides appropriate treatment for psychiatric emergencies after normal working hours. It is staffed by on-duty psychiatric nurses, with on-call backup from the hospital's psychiatric registrars. Demands on the team have led to a revision of its service priorities. The

first priority is now directed to an acute psychiatric disturbance, requiring assistance outside the hospital; with the second priority going to a person presenting at the hospital's emergency department with a psychiatric illness.

A six-month evaluation of the crisis team commenced in April, and a final report will be available in November. Between April and June the team was contacted by 458 clients on 995 occasions. The majority, 54 per cent, were telephone contacts; 35 per cent presented at the hospital emergency department; and 11 per cent involved domiciliary visits.

Because of the nature of crisis work, the team is currently addressing operational issues, looking at different approaches to urgent and non-urgent work. As the cost of a night shift contact is around $88, compared with an evening shift call of $33, the viability of maintaining on-duty staff on the night shift is being assessed. Other States provide night shift services on an on-call basis. I am looking forward to the final evaluation report on the crisis team.

Rehabilitation services are becoming increasingly important in the ACT. A review of the new activities club was recently carried out, following the anti-social behaviour of some of its clients which resulted in its temporary closure. I have to express regrets, Mr Speaker, at this point because of the hype that was created by Mr Humphries in relation to this matter, without really studying the difficulties which had confronted that issue. I do not think that did him any credit. Nevertheless, it focused some attention on it. I am very happy that the review resulted in positive outcomes. I am pleased that the centre was able to reopen on 1 October at the same site.

**Mr Humphries**: Through Opposition pressure.

**MR BERRY**: Mr Humphries says, "Through Opposition pressure". I have to say that Opposition pressure did not have much to do with it.

**Mr Humphries**: It had a lot to do with it, Wayne, didn't it?

**MR BERRY**: It did not have much to do with it at all. The review, which included consultation with club members - the Opposition was not there - non-government mental health staff organisations - the Opposition was not there - mental health staff - the Opposition was not there - and tenants of the building - the Opposition was not there, resulted in a change to some practices. So, where was the Opposition? According to Mr Humphries, they were lurking around somewhere. They were nowhere to be seen when the hard graft was to be done, because that is what was required in setting the new profile for this establishment.

New admission criteria have been set, and a new arrangement for monitoring client behaviour has also been organised. The new conditions should improve the rehabilitation value of the club and provide a safer environment for users of the building. That is what the review was about, and that is why it was necessary.

Another growth area in rehabilitation is vocational training and employment for clients with a psychiatric disability. I understand that since May psychiatric rehabilitation services and the Canberra Schizophrenia Fellowship have worked together to develop a retail garden centre. The fellowship provided $10,000 to stock the centre and also was successful in gaining an ACT Government vocational training grant for the employment of the centre manager. It commenced operations, Mr Speaker, on 17 August. So, that is more good news under a Labor government.

The Mental Health Act review report, "Balancing Rights", completed in 1990, made 59 recommendations, and these are presently being considered by the Board of Health. The Government will further consider the recommendations in the near future. It is pleasing to be able to acknowledge the range of mental health services available to the ACT community, and Mental Health Week is an appropriate time to be doing this.

It is important to note that at a national level mental health issues are also being considered. In recent years, mental health care has been moving away from institutional settings to maintaining people with a mental illness in the community. Currently, the Commonwealth, State and Territory governments are working together to reassess their roles and responsibilities for the provision and funding of mental health services. A national mental health care policy, including standards of care, consumer rights and resource priorities, is being considered.

It is on that basis that I would like to acknowledge Mental Health Week. It is a week which allows people with a mental illness, their families and carers, community groups, mental health workers and governments to focus on mental health issues. It is a week for the entire community to consider a "gentler society". I present the following paper:

> Mental Health Week, Ministerial statement, 22 October 1991.

I move:

> That the Assembly takes note of the paper.

**MR HUMPHRIES** (3.44): Mr Speaker, I certainly welcome the statement the Minister has made. I welcome also the institution that Mental Health Week has become in the ACT. It is a very valuable way of highlighting the problems that people with mental illness face. Of course, those problems are determined primarily by the society in which they exist. Clearly, people need to take a different attitude towards those with mental illness in order to overcome at least part of their problem. The Mental Health Week exercise is very valuable and I will be taking part in Mental Health Week activities, much as I have done in the last few years and as I understand the Minister has done.

It is, however, sad that the Minister so desperately needs to polarise or politicise these sorts of issues. It should have been possible for both of us to rise in this place and talk about the good things that can happen under the Government's program for mental health issues and for people suffering from mental illness. That is not possible because of the sorts of things the Government has said and, in particular, the Minister has said. I sincerely hope that in the long term the Minister realises what damage he does to the institution of parliamentary democracy by constantly polarising issues which ought not to be polarised.

Mr Speaker, Mr Berry referred to the hype that was generated, he said, by me concerning the reopening of the new activities club in Civic, near Childers Street. He expressed regret that this had happened, but was happy that the centre had reopened. I record my view very definitely, and I very firmly put it to this Assembly, that had it not been for that hype the new activities centre would not have reopened. It had been closed because of problems with violence; that is acknowledged. From my discussions with officers of the department, it was clear that the desire - at least the prima facie desire - of the department was that the centre be closed. Mr Berry should talk to some of his officers to find out what their attitude towards that was.

The residents were not going to take that decision. They fought back and said, "We believe that this centre is important. It fulfils a role which is not fulfilled by any other service in the ACT, and we want it to stay". In that exercise they were helped by the Opposition, which got down to the business of making sure that the issues the Government was trying to sweep under the carpet were not allowed to be swept under the carpet. I am pleased to say that, as a result of that publicity and as a result of that work on the part of the Opposition, the new activities centre is once again open and will continue to provide services to people in that very special category of mental illness.

Mr Berry made much of the fact that Opposition members were not there when various things happened. There is a very simple explanation for why they were not there, Mr Speaker: They were not invited. It is, of course, the policy of this Government not to allow Opposition members to take part in processes such as those Mr Berry mentioned. They are persona non grata. They are to be shut out of this process. Witness, Mr Speaker, the Government's decision not to let any public servants attend Ms Maher's meeting on domestic violence. That is a clear indication that nothing is to be done with the Opposition that might, in some way, give them some credit for the work that has been going on.

I am very pleased to see that Mr Berry has been able to maintain the dollar amount for mental health funding in the ACT. The fact is that maintaining the same dollar amount fails to account for inflation. What Mr Berry has done has been to cut mental health funding in the ACT in real terms. More good news under the Labor Government! Really! That must be pretty strange good news. If I were a person in need of these services, I certainly would not be seeing that as good news.

Perhaps the Government does not think that people in those circumstances can understand that, in fact, it is bad news for them. We can understand that. We see through the Government's flimsy attempt to make hay out of what cannot be harvested. I have to say that I think the Government deserves to be a little bit less smug about Mental Health Week than it is. The fact of life is that the Alliance Government increased funding for mental health services, at least in particular areas.

I refer particularly to the extended hours crisis service established by the Alliance Government. We are proud about that and we believe that that was an important step to be taking towards improving the plight of people with mental illness. This Government has done nothing apparently new in this area. In fact, it only retained decisions made by the former Government and is cutting mental health services quite significantly, at least by the extent of inflation. I would not be smug about that, Mr Speaker. I would be ashamed, but of course this Minister opposite feels no shame.

Question resolved in the affirmative.

## MINISTER FOR HOUSING AND COMMUNITY SERVICES
## Motion of Censure

**MR DUBY** (3.50): Mr Speaker, I seek leave to move the motion being circulated in my name, namely: "That this Assembly censures Mr Connolly for misleading this Assembly in answers given in question time on Thursday and today about evidence given to the Estimates Committee concerning reductions in staff numbers in the Children's Day Care Services Section".

Leave granted.

**MR DUBY**: I move:

> That this Assembly censures Mr Connolly for misleading this Assembly in answers given in question time on Thursday and today about evidence given to the Estimates Committee concerning reductions in staff numbers in the Children's Day Care Services Section.

This is a sad day, I believe. This motion has come about as a result of the actions, the extraordinary actions, of Mr Connolly in the house on Thursday and, of course, repeated today. What this boils down to is the attitude that has been demonstrated by members of the Government opposite in question time to legitimate questions of concern put by all members of this Assembly about a whole range of issues.

The replies that have been given in question time on the broad range of topics on which questions have been asked of them have invariably not been answers. They have been replies. They have regarded question time in a very flippant fashion. From the way that things have been going in this Assembly since this Government took the treasury benches, it has been only a matter of time before that slip-sloppy approach of theirs to question time has spilled over into this accident, I would like to imagine, of Mr Connolly's, in which, in my view, he has misled this Assembly, and misled it on a number of occasions, concerning responses to questions that he has been asked.

It might be pointed out that in a lot of ways this motion has been brought on Mr Connolly by no-one but himself. If members can cast their minds back to Thursday's question time when the questions which were raised by Ms Maher concerning answers given by Mr Connolly to the Estimates Committee about the number of staff employed in the licensing related functions of the children's day care services section of his department were asked, they will note, I am sure - as I will point out as we go through this debate - that there was nothing vindictive or sneaky about the questions. They were perfectly legitimate questions which said: "It appears to me, Mr Minister, that there is some discrepancy between a public statement you have made in one place and a public statement you have made here".

Mr Connolly was then given the benefit of the doubt, over a period of four or five days, to go and review evidence which he had given to the Estimates Committee. Indeed, in response to a question today, when he was asked, "Have you had an opportunity, Mr Connolly, to review the evidence which you may have given to the Estimates Committee?", the answer he gave most assuredly was, "Yes, yes, I have certainly done that". He again refuted and denied to this Assembly that evidence he had given to the Estimates Committee was what he had factually said.

Let the record show that this censure motion stems from a question that was put to Mr Connolly by the chairman of the Estimates Committee during Mr Connolly's hearings with that body. The particular question that was put to Mr Connolly by the chairman was this:

> And in the budget papers on page 133, you refer to 80 new child care places being established. Will there be any changes in the number of staff employed in licensing related functions in the children's day care services section in 1991-92?

Mr Connolly's response was:

> No, no. And indeed, in all administrative areas, more efficiencies are being sought throughout the service.

He was then further asked by the chairman:

> So you are confident that you will be able to establish and license and supervise those additional 80 new child care places with the same staff you already have at the moment; is that correct?

Mr Connolly replied:

> Yes.

**Mr Moore**: Mr Speaker, I raise a point of order. I would like a clarification. I understand that last week you indicated quite clearly that using the draft *Hansard* of the Estimates Committee was an inappropriate thing to do. I understand that because the draft *Hansard* is just that, draft *Hansard*, and therefore it raises some difficulties. You now appear to be allowing Mr Duby to read from the draft *Hansard.* I am wondering whether you are going to keep a consistent position on this and what that position will be.

**MR SPEAKER**: Mr Moore, I have been worrying about the same issue. I will point out that the *Hansard* of the Estimates Committee is only a draft. It is not edited; so there will be no improvement on what you have now.

**Mr Kaine**: I thought Mr Duby was reading from the transcript of the Legislative Assembly of 17 October.

**MR SPEAKER**: Yes, he was reading from the transcript. I am in a bind here because, really, all of this information should be left to the Estimates Committee to present to the Assembly. However, as Mr Duby has been given unanimous leave to proceed, I think I should rule that he be allowed to do so.

**Mr Moore**: I take a further point of order. I am quite happy to give Mr Duby leave to proceed with the censure motion. I am not happy, and I have some doubts here, about giving Mr Duby leave to use the draft *Hansard* as though it were the actual *Hansard.* We have a bind there, of course.

**MR SPEAKER**: Mr Moore, as I explained, there is no editing of the *Hansard* of the Estimates Committee; so what we have is what will be.

**Mr Moore**: I am sure that it is possible for a small section of *Hansard* that comes up for debate to actually go through an editing process, should it be necessary, or for the Estimates Committee to handle this particular question in the first instance, and then come back to the motion of censure.

**Mr Duby**: Whilst I acknowledge the point raised by Mr Moore, it should be pointed out that further on in my speech I will be saying that today Mr Connolly has acknowledged that he has reviewed what he stated to the Estimates Committee and he has agreed already that this is a true and accurate record of what he stated to the Estimates Committee. There can be no doubt whatsoever that what I have read out is a true and accurate record. Mr Connolly admitted in today's question time that he has reviewed his evidence to the committee and he has concurred that the evidence that was quoted to him on Thursday was indeed an accurate reflection of what he said to the committee.

**MR SPEAKER**: Yes, I would support your point of view, Mr Duby, inasmuch as Mr Connolly can present his argument for or against that statement you made. Please proceed.

**MR DUBY**: Thank you, Mr Speaker. Having covered that Mr Connolly quite unequivocally announced to the Estimates Committee a certain line of action, I point out that Mr Connolly was subsequently asked on Thursday by Ms Maher questions about whether, first of all, there were going to be reductions in the licensing related functions of the children's day care services section, a drop in ASO levels of some two persons.

Mr Connolly, I must admit, first says in his response, "Yes, I believe that is going to happen". Then, realising perhaps that he should not be answering yea or nay to any question, as is par for the course for this Government, he waffled on a little bit. But basically, at the end of the day, he has accepted that there is a reduction in staff numbers in his response to this - - -

**Mr Connolly**: No, I have never said that.

**Mr Moore**: I take a point of order. We have Mr Duby now saying things that Mr Connolly said. We have Mr Connolly over here interjecting and saying, "No, that is not what I said at all".

**MR SPEAKER**: Mr Moore, he will have an opportunity. That is not a point of order.

**Mr Moore**: The point of order comes back to the issue of whether we can use draft *Hansard* that is currently before an Estimates Committee as though it is *Hansard*, as though it is a true and accurate transcript of something that has gone on.

**MR SPEAKER**: Mr Moore, I thought I just answered that objection. Please proceed, Mr Duby.

**MR DUBY**: In response to various questions that were put to him by Ms Maher, Mr Connolly has said quite categorically that there will be a reduction in staff in that area. Secondly, he has then denied ever saying to the Estimates Committee that there would be any reduction in staff at all. Page 46 of the draft *Hansard* of last Thursday confirms that, as does page 47.

Subsequently, he was asked again on Thursday, in question time - if I can just find my drafts here - how he then was able to justify the supposed inconsistency between his statements to the Estimates Committee and the statements to this Assembly. His responses again were along the lines of, "Oh, no, no. When I say, 'no, no', I must say it is usually the 'no, no' that I say when I am trying to cut a silly question out". The question asked was, "Can you give an undertaking; will there be any changes in the number of staff employed?". His response was, "Oh, no, no". That is not an equivocal answer from Mr Connolly.

I might point out, Mr Speaker, that at the time that he was answering these questions he had the draft copy of the Estimates Committee hearings in his hand. The simple fact is that Mr Connolly is one of those persons in this world who cannot bear to admit that they may have ever made a mistake, or had a lapse of memory, or whatever.

At this stage no-one is suggesting that Mr Connolly is deliberately trying to mislead the Assembly. We all know Mr Connolly's personality. We all know that it would be anathema for him to admit that perhaps he had made a mistake, that perhaps he had had his wires crossed, that perhaps there had been some error in his recollection of what he may or may not have said.

In finishing our question time last Thursday I specifically again asked Mr Connolly the question:

> Can he assure the house - and I would ask him to think about the answer - that he has not misled the Estimates Committee?

Again he goes into it and says, "I believe that I have answered it truthfully". So far, we are still giving Mr Connolly the benefit of the doubt.

Today in question time, Mr Connolly again was asked specifically by Ms Maher, "Minister, have you had a chance to review the evidence that you gave in the Estimates Committee in relation to the staffing levels of the licensing functions covered by the children's day care services section? Do you now agree that you gave an assurance to the committee that there would be no staffing reductions in this area?". That is a simple question which requires a simple answer. What do we have today from this putative Minister? We have a tirade of abuse of Ms Maher for daring to ask the question which might have implied that he could possibly be wrong.

**Ms Follett**: I raise a point of order, Mr Speaker. Mr Connolly certainly did not indulge in abuse of Ms Maher, and I think that should be withdrawn.

**MR SPEAKER**: Order! I overrule that objection. I was in the chamber at the time.

**MR DUBY**: Indeed, it was a simple question which required a simple answer.

**Mr Berry**: I take a point of order, Mr Speaker. Mr Duby has implied that Mr Connolly personally abused Ms Maher. He did not. He drew attention to some hurtful historical events and political realities which may have caused a couple of blisters; but there was no personal abuse, and I think there is no need to impute that sort of behaviour.

**MR SPEAKER**: I rule against you there, Mr Berry. I think it was unwarranted comment and, in my opinion, it was abusive.

**MR DUBY**: Thank you, Mr Speaker. As I said, it was a very simple question: "Have you had a chance to review your evidence to the Estimates Committee? Do you now agree that maybe you made a mistake?". Of course, that is an impossibility for this Minister, or any of those Ministers opposite, to admit. Instead, as I said, we had a tirade of abuse; shoot the messenger and do not answer the question.

Indeed, again today Mr Connolly has indulged in insisting that the answer "No" to a question does not mean no when he says it. He means that he was saying no to somebody else in the room perhaps. But the answer "Yes" to a question does not mean "Yes, that is exactly what I said"; it means something else entirely.

**Ms Follett**: The question was about additional staff.

**MR DUBY**: Do not try to screw out of it now. The fact is that he has had ample opportunity to review his evidence, ample opportunity to admit the fact that he has made a mistake; but the simple fact is that the overgrown ego of this man has refused to allow him to admit that. All he had to do was say, "Yes, I perhaps made an error in my evidence".

**Mr Berry**: You are just about to get a lesson in public speaking.

**MR DUBY**: That might well be the case. The simple fact also remains that Mr Connolly has on a number of occasions misled this Assembly in question time.

**Mr Connolly**: I take a point of order, Mr Speaker. You ruled today, quite correctly, that if there is an allegation of misleading the Assembly in question time there needs to be a substantive censure motion. Now he is going ahead. The person who actually made the allegations originally, whose question it was, is not moving it; Mr Duby is moving it. But, in moving this censure motion on this alleged misleading, he is now saying that I repeatedly mislead. He must be called to order on that, unless he is referring to this topic.

**MR SPEAKER**: Yes.

**MR DUBY**: As the motion says, the answers given on Thursday and today have misled this Assembly. Mr Connolly has repeatedly misled this Assembly in question time. He deserves to be censured for this action. Indeed, the whole Labor minority Government deserves to be censured for their frivolous attitude and the frivolous way they approach question time, and, indeed, the general duties of a government in this Assembly. They treat this Assembly with disdain. They do such things on a daily basis.

As I said, this motion has not been moved with any malice. This has been moved for the simple reason, Mr Connolly, that you simply have not a big enough heart to say, "Yes, perhaps I made a mistake". Instead, you have tried to bluff your way out of this, in the typical disdainful way that the whole of your Government treats the rest of the members of this Assembly. You deserve to be censured and I have a funny feeling that you will be.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.05): Mr Speaker, I think the genesis of a censure motion here is to be found in the *Canberra Times* weekly review of the events of the Assembly of last weekend which reported that the Opposition basically has been unable to lay a glove on the Government for some weeks and has been performing their role as an Opposition fairly pathetically. They have decided that they cannot do any good in question time, they cannot do any good in MPIs - nobody reports their MPIs, which are contradictory in any event - and so they will hit on the little stunt of moving censures and use their numbers against the minority Labor Government to no doubt sequentially censure the Ministers.

But Mr Speaker, while I fully expect that that is the political reality of the situation - Mr Duby said so himself; the numbers have been done; we saw the deal being done - it is important that the record be put in order.

I am alleged to have misled the house and the Estimates Committee by assuring that there would be no staff reduction in a certain area of the administration, and I say that I never gave that assurance. I say that with confidence. To the extent that there was a coordinated central attack on the Government in the Estimates Committee process, it was the attempt by Opposition members of all parties to focus in on the 250 administrative staff positions and to seek to trap Ministers into saying where there will be a reduction and where there will not be a reduction, whose job will go, whose job will not go, the names of the people whose job will go, the names of the people whose job will not go.

I appeared before the Estimates Committee over three days, from early in the morning till quite late at night. When I was repeatedly asked that question, I gave a very consistent answer. The very consistent answer was that there are 250 positions to be saved; and that that was a budget Cabinet decision. I said:

> The process now is being undertaken between the Government at the agency level and the Trades and Labour Council and the individual unions to identify where those positions may come from and to go through the appropriate and proper redundancy procedures.

I am quoting now from page 290 of the Estimates Committee transcript relating to this program, but somewhat earlier than the incident in question. I said:

> There simply is not a list in anyone's possession sitting in a safe or a bottom drawer listing the positions by name and number. That is not the way the process operates ... The bottom line at the end of this budgetary year is that there is $6m less in salaries for those administrative positions and those savings must be achieved.

Repeatedly, I was asked the same question and repeatedly, to the chagrin of members opposite, I gave the same answer; that is, we did not know at that stage, on 8 October and on other days, what positions would be looked at as savings options. What we knew was that some 250 positions would have to be saved, and there was a process going on, which involved consultation with the unions, to look at possible savings throughout a range of areas.

In fact, I can now advise the house that, quite properly and consistently with what I have been saying, a letter had been sent by the executive director of the family services program on 1 October to the delegate of the Public Sector Union identifying that that might be an area where savings may occur and that there will be consultation. That was going on throughout the service.

The area in which I am alleged to have misled the Estimates Committee occurred on the morning of 8 October, at page 751 of the transcript. We were talking about child-care places and we were talking about new places. It is important that the entire passage be set down. Mr Duby has selectively quoted the question and my answer as though it were a single question and answer, whereas it is apparent from the transcript, to anyone who looks at the transcript, that we were going through a process. What we were talking about was additional child-care positions which had been created. Mr Jensen said:

> I am interested to know too the numbers of additional staff employed to carry out the licensing of those new places in 1991.

I said:

> Do you want a geographic breakdown of them, Mr Jensen?

Mr Jensen said:

> Yes, please. And in the budget papers on page 133, you refer to 80 new child care places being established.

So, again, the new places being established, the question is: Do we need additional staff? Mr Jensen continued:

> Will there be any changes in the number of staff employed in licensing related functions in the children's day care services section in 1991/92?

I said:

> No, no. And indeed, in all administrative areas, more efficiencies are being sought throughout the service.

Mr Speaker, in the context of "Will we need additional staff to perform an additional function?", the answer was, "No, no. In all areas we will be having more efficiencies". I interpret that to mean that we do not need additional staff, which was the original question asked. We were pursuing the question of whether, because there were additional functions, we needed additional staff. The answer was, "No, no. In all areas we can do it more efficiently". Mr Jensen was pursuing this, I might say, quite vigorously, and he asked a very sensible next question. I said, "No, we do not need additional staff", and he pursued me. He said:

> So you are confident that you will be able to establish and license and supervise those additional 80 new child care places with the same staff you already have at the moment; is that correct?

I said:

> Yes. You would be aware that there has been significant administrative changes throughout this area following - particularly, the Callaghan report - that indicated that perhaps some of the ways paper had been kept in the past were less than satisfactory. There has been significant administrative improvements and reform in this area over the last 18 months or so and efficiencies have been achieved across the board.

So, we start off with their additional functions. Mr Jensen says, "Do you need additional staff?". I have not listened to the tape of this, but I think that, because I said, "Do you want a geographic breakdown of them, Mr Jensen?", that was flippant. Mr Jensen and I had had a number of exchanges about the names, numbers, hair colours and addresses of staff savings.

He went on again to refer to the new places being established and whether there was a need for more staff for this new function. I kept saying "no, no" or "yes", but coming back to say that there will be administrative savings and we do not need new staff. If that has been taken to be an answer that there will never, ever be a reduction in staff in this area - if they take it to read that - I believe that they are fundamentally wrong; but, if they take it to the extent that they read my answer that way, I apologise for my answer.

But, given the consistent statements throughout the Estimates Committee, and we pursued it with some vigour - indeed, considerable vigour - and some acrimony at times, I consistently gave the same answer about where staff savings would occur. That answer was: "There is not a list; we have not made the final decision; we are going through a process of consultation".

The Opposition attack - to the extent that there was a coordinated Opposition attack - seemed to be that the Labor Government should have compiled a list of 250 positions and have had them cemented in concrete before a budget decision was announced. Our answer, and it was my answer repeatedly throughout the questioning - it was Ms Follett's answer; it was Mr Berry's answer; it was Mr Wood's answer - was, "The Government has made a budgetary decision; it is going through the process of consultation with the unions: and positions for savings will be identified".

We get, on page 751, questioning along these lines: "There has been an additional function created; there are 80 new places; do you not need additional staff?". That is a good question to ask in the context of an Estimates Committee that is looking for savings. They see that there is an additional function; they are concerned that there is going to be additional demand on resources, and my answer is: "No, there will not be any additional demand on resources".

Mr Jensen said: "Will we not need changes?". I took that to mean that we do not need to increase, which was the question that we were in the process of answering. It is obvious that that is what I was saying, because my "No, no" is followed by "And indeed, in all administrative areas, more efficiencies are being sought throughout the service". So, we do not need additional staff; we are all about doing it more efficiently.

Mr Jensen clearly took it that way himself, because he followed up with a question which makes sense only in the context of a line of questioning seeking to establish that more work, or more responsibility, means more staff. He says, "You are confident that you will be able to establish and license those additional places with the same staff you have at the moment?". I said, "Yes", and I went onto efficiencies.

Peppered throughout the Estimates Committee was that consistent answer on staff savings, which was this: "We have not yet identified them; we are in the process of identifying them", and, as I say, there was a letter to the relevant delegate of the Public Sector Union in that work area a week before that was clearly indicating that that was an area that the management were looking at as a possibility of savings options.

In Mr Duby's remarks today he said that I had misled the Assembly in my answers on Thursday. He repeatedly says that I had assured the Assembly that there would not be staff cuts in this area. As I say, the Estimates Committee transcript makes it clear that that was not what was said at all. What was said was that there was no need for additional staff; efficiencies were occurring. The stock answer to "Where will you cut staff?", received throughout that Estimates Committee throughout my three days of attendance, was: "We do not yet know; we are in the process of consultation".

He then made the incorrect statement, which we cannot say is a misleading statement, that I had confirmed to Ms Maher in question time on Thursday that there would, indeed, be two positions saved in this area. When Ms Maher asked me a question, which was, "Will there be a reduction at ASO level from 4.5 to 2.5?", I said that I presumed that she was making reference to the reductions of administrative staff occurring throughout; and I gave the stock answer - that there is a process of consultation and that, unfortunately, in some areas savings have to occur.

There was a supplementary question from Ms Maher, which then tried to suggest that there had been a conflict with what had been said in the Estimates Committee. I gave my repeated answer, which was that we did not know what staff positions were being saved; we were going through a process of consultation. I said:

> I would have found it implausible that I would have given some categorical assurance that any single administrative unit would no, no, never, ever have any staff reductions.

Of course, I have never said that. I then clarified and said:

> I am not, indeed, today confirming to Ms Maher that a particular ASL in a particular unit has been reduced from 4.5 to 2.5. I will take it on the assumption of what she says is right ...

I give her the credit that she is not making something up and trying to trap me on something that she is making up. I said:

> I will take it on the assumption of what she says is right, and confer with my officers afterwards ...

I then said, "but, no, I certainly have, to my knowledge, never said anything other than that negotiations were occurring as to where staff positions would be saved".

I am advised today that, indeed, that is exactly what is occurring in this area. There has been a letter, properly, in accordance with the Government's procedures, from the management area to the relevant delegate and consultations are ongoing in that area, as they are everywhere. There was a meeting last week. Indeed, options for savings were being reduced. By the end of this week, I am advised, there will be another letter to the unions outlining more specific proposals, and I am not sure, at this stage, whether there will or will not be the relevant reduction in that relevant area. And that follows, because throughout the process we have identified a budgetary saving and we have said that we are going on the process of consultation with the unions to achieve it.

What is alleged against me is a beat-up from a transcript. It is abundantly clear to any fair-minded person who reads it what we were talking about; that because we have additional work in an area it follows that we need additional staff. That is the allegation. I rebutted it twice. It is clear from the context of my "no, no" to one question, my "yes" to another, and my follow-up. In each case I refer to the fact that we are making administrative savings; we are doing things more efficiently. It is in the context of, "We do not need more staff". Mr Jensen's follow-up question - Mr Jensen's follow-up that is attempting to trap me, properly; that is his job; he is cross-examining in the Estimates Committee - again is in the context of "Because you are doing more work, don't you need more staff?". I say, "No", and I go on again about efficiencies.

The Estimates Committee knew well, because we had been through it ad nauseam, that the stock or standard answer from the Government was that we had not identified the positions; there were 250 to be saved globally, and there was a process of consultation. To try to beat up this short passage, where we were talking about the lack of a need to have additional staff, and suggest that I have misled the Estimates Committee or the Assembly is a fairly pathetic attempt from an Opposition that has lost its way. It has lost its way on the Liberal Party side since Mrs Nolan left to form another party. You were clearly disorganised last week. You could not organise yourselves. It was painfully apparent to everyone. It was reported widely in the media and so, in your last desperate attempt, you are attempting to censure the Minister.

As I said earlier, to the extent that a person could misread my comments out of context, I apologise; but I say that a fair-minded person reading my comments in context, in the context of some three days at that committee, would see very clearly, as did Mr Jensen, at the time, from his follow-up question, that we were talking about there being no need for additional staff. At no point was any assurance given that there would not be a cut in any area; nor could such assurance be given because of the repeated answer that the process of identifying positions for saving was an ongoing one, subject to ongoing consultations with the unions. Madam Temporary Deputy Speaker, this is a nonsense.

**MR KAINE** (Leader of the Opposition) (4.20): This is not a nonsense, and Mr Connolly has been caught out. Mr Connolly has been caught out because he floats along like a duck on the top of the water, very superficially. His response to questions, generally, is superficial. He never subjects questions to any in-depth intellectual analysis, and he thinks he can get away with it. He says that we have never laid a glove on him. Well, today is golden gloves day.

He can weave a tapestry ranging across the whole of the evidence that he has given to the Estimates Committee - he can do that all he wants - but the fact of the matter is that his deception and his misleading focuses on just two small words; not on the whole of the processes of the Estimates Committee, but on two small words in answer to a specific question. That specific question, and I repeat it, was this:

> Will there be any changes in the number of staff employed in the licensing related functions in the children's day care services section in 1991-92?

Mr Connolly said, "No, no". He now tries to change the nature of the question and he asserts that what Mr Jensen was asking was whether there was going to be an increase in staff. Mr Connolly asserts that what Mr Jensen was trying to find out was whether there was going to be an increase in staff. That was not the question.

**Mr Connolly**: Read the whole passage.

**MR KAINE**: You see, he is bluster, bluster, bluster; bluster and bombast. When you are being done like a dinner, all you do is come out attacking.

**Mr Connolly**: Will you read the whole passage?

**MR KAINE**: It is your turn to listen, Mr Connolly. I have listened to you, and you have been nailed to the wall. You were asked a specific question that had nothing to do with increases in specific terms. You were asked the question, "Will there be any changes in the number?" and you said, "No, no".

**Mr Connolly**: Read on.

**MR KAINE**: You then made what was really an irrelevant addition to the answer, as you often do. You run off at the mouth because you do not know when to shut up. If you had stopped there - - -

**Mr Connolly**: Are you going to read on?

**MR KAINE**: I do not know. I have no intention of reading on - - -

**Mr Connolly**: No, of course not, because it contradicts what you are saying.

**MR KAINE**: We will come to that in a minute. Mr Connolly said, "No, no" in answer to that specific question. What he is now telling us is that either he meant, "Yes, yes", or he was saying, "Buzz off, you intellectual inferior; I do not want to answer your question". That is implicit in what you later said about not having names, addresses, colours of hair, telephone numbers and the like.

You see, you are so intellectually superior that you brush people off as your intellectual inferiors, and this time you got yourself caught, because you did not say, "Yes, yes". You did not say, "Yes, there will be a change in numbers". You said, "No, no, there will be no change in numbers". That was the import of the answer that you gave; "There will be no change in numbers".

**Mr Connolly**: I never said that. That was never said. Read the whole answer.

**MR KAINE**: Of course, when you said, "No, no" to that first question, you were really anticipating the second question. You knew what the next question was going to be and you were going to answer "Yes" to that. I submit to you, Mr Connolly, that you did not know what the next question was going to be. You had one question before you and you answered it. You answered it, "No, no".

Well, Mr Connolly, that is where you hanged yourself, because you are lazy as a Minister. You do not even remember what you say from one week to the next. When Ms Maher followed this up a week later and asked you a further question, you then said, "Yes, there was going to be a reduction". I repeat, "there was going to be a reduction". You had forgotten what you said a week before and now you answered the question, not in terms of whether there was going to be an increase, which you now claim is the first question; you are now saying, "In fact, there is going to be a decrease".

The simple fact is that you did not even remember the first question when Ms Maher asked you about it. You thought, with your bombast and bluster, that you could bulldoze your way through and you would never be held to account for it. Well, you are being held to account for it. There is no question whatsoever in my mind that you answered that question deliberately and specifically.

You can try to reinterpret history today. You can reinterpret history today. You are a lawyer, Mr Connolly. You know the precision of words and you know the precision of answers to questions. I presume that, as a practising lawyer, you have asked questions of witnesses in the courtroom, you have recorded their answers and you have held them to account for the answers. You are a lawyer. Now you are held to account for your answers.

Either you deliberately intended to mislead the members of the Estimates Committee or you thought you could make a flippant off-the-cuff remark and get away with it. Neither is the case. The records are before us and it is quite clear that you understood clearly the question. You answered the question and you said, "No, no".

**Mr Connolly**: Read the full answer.

**MR KAINE**: There is no amplification of the answer necessary. I am glad that you keep questioning it, because it gives me an opportunity to restate it. You were asked a specific question that had to do with changes in numbers - non-specific beyond that - and you said, "No".

I repeat, Mr Connolly, that either you knew that you were answering that question incorrectly, or you were demonstrating your intellectual superiority and telling these intellectual inferiors to buzz off because you could not be bothered with their questions. In either case, you are condemned. I agree with Mr Duby; you deserve to be censured and I agree with him that I suspect that when this debate is over you will be.

**MS MAHER** (4.26): I would just like to put some history on why I asked this question. The children's day care services area is a very important area to me and the licensing function is a very important function. The licensing function area looks after over 200 child-care facilities in the ACT which are required by law to be licensed. I feel that the area provides a very important service to the community, especially - - -

**Ms Follett**: I take a point of order, Madam Temporary Deputy Speaker. This is not relevant.

**MADAM TEMPORARY DEPUTY SPEAKER** (Mrs Grassby): Relevance, Ms Maher.

**MS MAHER**: Okay. The reason I asked the question was basically that before the Estimates Committee had begun questioning Mr Connolly - and unfortunately I was not there at the time the questioning was being done - I had been told that two positions were going from this particular area; that in fact the position numbers had been relinquished; that the two staff involved had been basically told that they were redundant and - - -

**Mr Berry**: I take a point of order. What Ms Maher has been told or not told is irrelevant.

**MADAM TEMPORARY DEPUTY SPEAKER**: Ms Maher, the motion is to censure the Minister for misleading the house.

**MS MAHER**: On the information.

**Mr Duby**: You are explaining why you are supporting the censure motion.

**MS MAHER**: All right, I am explaining why I feel Mr Connolly has misled the house.

**Mr Berry**: Ms Maher's feelings on the matter are irrelevant as well.

**Ms Follett**: She was not even there.

**MS MAHER**: I read *Hansard.* That is why I asked the questions in the house, to further clarify and try to get a straight answer, which I was expecting; so that Mr Connolly could say that he had made a mistake; that there were two positions going, that the two positions had been relinquished and that the staff had been informed that they were basically redundant and were being found other positions within the public service. That is why I was asking the question.

Mr Connolly just cannot give a straight answer. That is what I find so disappointing about this house. The people in it, especially the Ministers who are answering questions, cannot give straight answers.

**Mr Berry**: I take a point of order. There is an imputation against Ministers that they are not straight, and that has to be withdrawn.

**MADAM TEMPORARY DEPUTY SPEAKER**: It is an imputation; saying that the Minister is not telling the truth.

**MS MAHER**: Okay, I withdraw that. They just give longwinded answers. We are referring to the *Hansard* and the questions I have asked and the information Mr Connolly has given.

**MADAM TEMPORARY DEPUTY SPEAKER**: If you keep to that line; I think that is what it is about.

**MS MAHER**: Okay. With respect to my questioning of Mr Connolly in regard to the reduction of staff in the children's day care services area, on page 46 of the proof *Hansard* Mr Connolly said:

> I presume this reduction of two staff in the administrative unit is what is of concern to Ms Maher ...

So, he is basically admitting there that there is a reduction of two staff in that area. He continued:

> but I am afraid that in the difficult budgetary times, those sorts of savings had to occur at the administrative level. I think it is a better way to make the savings than at the service delivery end.

I presume that he is talking about the two positions in the licensing function area. He is talking about them at the administrative level; that they are not service delivery positions. Well, I beg to differ, in that I think those two positions - there are four at the moment - provide very good service to the ACT in making sure that the quality of child-care within the ACT is of the highest standard.

At the moment there are considerations going on to increase the number of child-care places while at the same time reducing the number of staff who maintain these services, who ensure that they are correctly licensed, that they are meeting the requirements of the legislation under which they have to be licensed. They are answering complaints and checking them out.

**Mr Berry**: How relevant is that to the censure motion? This is over the top. I take a point of order. I would like to ask Ms Maher to remain relevant to the censure motion and not wander off on some diatribe about what might or might not happen in a particular government service department as a result of some perceived changes in efficiencies in those departments.

**MADAM TEMPORARY DEPUTY SPEAKER**: Ms Maher, could you bring it back to the point of the motion to censure a Minister.

**MS MAHER**: Yes, okay, for misleading the house. I feel that in the Minister's statement he said that the staffing area that he is reducing is only administrative and not service delivery. I feel that the area is service delivery.

**Mr Berry**: That is not entirely relevant. That, Madam Temporary Deputy Speaker, is not relevant to the debate. It is not an issue which is up for grabs in the debate.

**MS MAHER**: It is a further example of how he is misleading.

**Ms Follett**: Madam Temporary Deputy Speaker, I take a point of order. If Ms Maher wishes to raise, to quote her, a further example of misleading, then she must move a separate substantive motion, and she must withdraw that statement.

**MADAM TEMPORARY DEPUTY SPEAKER**: That is correct, Chief Minister. You must stick to the motion we have in hand, Ms Maher.

**MS MAHER**: All right. I would just like to say that I feel that an answer that was complete and to the point on Thursday would have solved all the problems. When the Minister stood up and started rambling on with regard to the question and how he was answering it, you could tell at the time that he just did not know what was going on and that he should have put it on notice.

I continued to persist because the information I had contradicted what the Minister said. I gave him the opportunity today, and the time, to have a look at the information that he had given to the Estimates Committee, to have a look at the information he gave to me last Thursday and to restate his answer and say what was correct; to say whether there were going to be reductions in the area or whether there were not going to be reductions in the area. That is all he had to clarify.

**Mr Connolly**: We do not yet know; negotiations are ongoing.

**MS MAHER**: Not with regard to the questions I asked as to whether there were reductions. Well, I cannot bring that in either.

**MS FOLLETT** (Chief Minister and Treasurer) (4.35): Mr Deputy Speaker, I think Ms Maher's comments on this matter bring home to all of us just what a futile exercise this is. Ms Maher has admitted that she was not present at the Estimates Committee hearing that this matter relates to; nor has she offered, in an incredibly tortuous speech, one shred of support for the motion. She was encouraged to do so on innumerable occasions and she did not because she could not.

The fact is that this entire censure motion is nothing more than an exercise in semantics. If members wish to peruse the transcript from the particular session of the Estimates Committee that is the subject of debate, it will be abundantly clear to them that the debate was about the possibility of an increase in staffing in the children's day care services section. There is no doubt about that.

To any fair-minded member reading the whole page - it is only one page; you do not have to read the whole transcript - it would be immediately apparent that the whole subject of questioning by the chairman concerned the possibility of additional staffing to the children's day care services section.

Mr Deputy Speaker, no member opposite is prepared to admit that; no member opposite is prepared to admit that Mr Connolly has given entirely correct answers, as is the case. Mr Connolly, in question time on 17 October and again today, has given an entirely consistent response. Mr Connolly at no stage has denied, as he is accused, that there would be any reduction in staff. What he did deny was that there would be additional staff.

I do not know how members opposite could have misinterpreted the transcript of the Estimates Committee in the way that they have, except for the fact that they were not there. Ms Maher was not there; she did not hear the debate. She does not know the thrust of that debate; the chairman does. I believe that it is Ms Maher's absence from the Estimates Committee debate on a subject that she claims to be interested in that has given rise to this entire farcical motion.

Mr Deputy Speaker, I further think that it is regrettable indeed that Ms Maher did not move the motion herself. And why did she not? Why did she wait until Mr Duby moved it for her? Could it be because Ms Maher does not share the courage of Mr Duby's convictions on this matter? She has said herself that she was not present. She has not herself offered a single argument in favour of the motion. That is very regrettable indeed. All we have heard, Mr Deputy Speaker, is Ms Maher attempting to justify her position by her alleged interest in the matter of child-care.

All I can say is that her interest in the matter of child-care did not extend to studying the budget. When she was interviewed by Julie Derrett on the question of child-care and a transcript was subsequently obtained, she did not have a single answer in her head either. If members want transcripts brought up and held against them, I would suggest that Ms Maher would not be a good person to start with.

**Mr Duby**: She did not lie.

**MS FOLLETT**: Mr Deputy Speaker, Mr Duby interjects, "She did not lie". The implication is that someone else has, and that ought to be withdrawn.

**MR DEPUTY SPEAKER**: Yes, I think you had better withdraw that, Mr Duby.

**Mr Duby**: I withdraw it.

**MS FOLLETT**: Thank you, Mr Deputy Speaker. Mr Connolly has acted completely correctly at all stages. I think that members opposite are churlish in the extreme in choosing to misinterpret the whole thrust of the debate at the Estimates Committee in this way and, following on from their own misinterpretation, to allege therefore that Mr Connolly has misled the house. He has not; his answers in question time last week and this week are entirely consistent. The view he has put has been the view consistently put by government Ministers with regard to the matter of staff reductions.

Mr Deputy Speaker, all I can say is that the members opposite have sunk to the point of moving motions like this on a matter which is purely semantics. Even they have admitted that the only evidence they have relates to one small part of one page of the thousands and thousands of pages of transcript from the Estimates Committee, and it is one small part of the Estimates Committee's deliberations which Ms Maher did not attend.

In conclusion, I can only say that Mr Connolly has my total support in his actions as a Minister, just as he has my total support in his handling of this matter. He has not misled the Assembly. He has not misled the Estimates Committee. Members opposite ought to have a bit more sense and concentrate on issues of substance rather than a shallow and empty argument over semantics.

**MR JENSEN** (4.41): I will be reasonably brief. The debate today is not about whether there would or would not be 200, 250 or even maybe more places cut out of the ACT public service by this Government's budget. The debate really is about whether a Minister, when answering questions, either in the Assembly or in a committee, should answer truthfully and not try to bluff his way through the questions. Ministerial graveyards, Mr Deputy Speaker, are full of Ministers who, like this Minister, often took it upon themselves to respond to questions when a more prudent response, the one adopted by the Chief Minister during the Estimates Committee, is to defer to ministerial advisers unless it is a policy question, when, quite frankly, it is appropriate for a politician to provide the political answer.

We have already heard about a letter of 1 October, some seven days prior to the Estimates Committee, which probably would have suggested the sort of answer that Mr Connolly should have given. Maybe, with hindsight, Mr Connolly

would have been a little more circumspect if he had followed that course of action. But it would appear that this gung ho Minister, keen to impress, was not prepared to defer on the occasions that he should have just to clarify a point. Because of that particular process that he has adopted, he continues to dig himself further and further into the mire by seeking to justify a statement.

Let us turn, Mr Deputy Speaker, to the original statement that started this whole issue. For some reason or other, Mr Connolly seems to suggest that, as chairman of the Estimates Committee, I was trying to trap him into answering a particular question. I was not trying to trap Mr Connolly in any way, shape or form. I was trying to get an answer to what I thought was a reasonably respectable question. Here we have a situation where the Government is about to increase the number of child-care places by 80 and my concern was to make sure that it would have sufficient resources to enable it to do that job correctly. So, I asked the question: "Will there be any changes in the number of staff employed in licensing related functions?".

**Ms Follett**: Read your first question.

**MR JENSEN**: "Will there be any changes?".

**Ms Follett**: What was the first question?

**MR JENSEN**: It is not the question I am talking about. The question I asked was whether there would be any changes in the number of staff employed in licensing related functions in the children's day care services section in 1991-1992. There is no doubt about that. Would there be any changes? The Minister then went on to say, "No, no".

It occurred to me, as I have already indicated, that once again we had an increase in activity. It seemed incredible that the Government, when it was proceeding at some haste to make some considerable cuts in the public service, would in fact be going to increase the number of licences and do it with the same number of staff. So, I followed up the question and said:

> So you are confident that you will be able to establish and license and supervise those additional 80 new child-care places with the same staff you already have at the moment; is that correct?

"Yes" was the answer Mr Connolly gave. Mr Deputy Speaker, quite clearly, the answer there is straight: "Yes". As far as I could see, Mr Connolly was saying, "We are going to do it with the same staff". Anyone who listened to that answer would have to wonder how someone could say yes to that question and then go on and contemplate further cuts in this area, which have been clearly identified in questions by Ms Maher in this place.

That was the reason why Ms Maher, I am sure, when she read that particular *Hansard*, thought, "This is very interesting. Why is the Minister saying that he is going to have all these increases in places, all these extra licences, and still be able to do it with the same staff?". So, it was quite natural, I would suggest, for Ms Maher to follow that up, particularly in view of her knowledge that there were going to be cuts in those services within that area.

Was the Minister saying, when he answered the question in the Estimates Committee on 8 October 1991, "Yes, we are going to be able to fix all that up, look after those extra 80 places, but we are going to do it with two less staff"? Why did the Minister not say that at the time if he knew that was the case? Why did he not say, "Yes, but we are going to cut the number of staff. We still think we can do those extra 80 places with the staff we have at the moment"? Why did he not say that at the time when the question was asked? Why did he not say that when I followed up, suggesting that he was confident that he would be able to do it? What he said was this:

> You would be aware there has been significant administrative changes throughout this area following - particularly, the Callaghan report - that indicated that perhaps some of the ways the paper had been kept in the past were less than satisfactory. There has been significant administrative improvements and reform in this area over the last 18 months or so and efficiencies have been achieved across the board.

I am not quite sure what that has to do with the licensing or the staff. What we have, once again, is a Minister telling me, anyway - that was my understanding of it - that he is going to continue to look after this area and be able to license the 80 new child-care places with the same staff. Now, he is telling us - - -

**Mr Connolly**: Without additional staff.

**MR JENSEN**: Now, without additional staff. Ah, he is condemned out of his own mouth in an interjection - without additional staff. We now find out in answer to a question from Ms Maher that he is actually going to cut the staff. So, Mr Connolly, you are going around and around in circles. You continue to dig yourself deeper and deeper into a hole.

Why are you not man enough to stand up here in this house and say, "I am sorry. I may have made a mistake"? All this would have been avoided. If Mr Connolly is prepared to do that here today, to stand up here in the house and say that he is sorry, to stand up and say, "I may have given the wrong impression; I apologise to the house for doing that; I will try not to do it again", I am sure that

my colleagues in the Rally would consider their position on the motion. But Mr Connolly sits there, as he did many times during the Estimates, and he has done many times in the house, and continually tries to run his own story.

He has not been prepared to take the good advice that is offered to him by his staff. I would suggest that if he does that on more occasions he will probably come up a lot safer. As I said before, ministerial graveyards are full of people who have failed to listen to the advice given to them by their staff.

**MR BERRY** (Minister for Health and Minister for Sport) (4.49): I rise to move an amendment which has been circulated in my name. That amendment - - -

**MR DEPUTY SPEAKER**: I cannot read a couple of words. Perhaps you could read that out, Mr Berry.

**MR BERRY**: Mr Deputy Speaker, had you been patient, I would have got to that. I understand the difficulty of reading things which sometimes are written in a hurry. I move:

> That all words after "This" be omitted and the following substituted: "Assembly notes the agreement by Mr Connolly in the Estimates Committee that there would be efficiencies achieved as a result of the Government's Budget and furthermore notes that a complete reading of *Hansard* both in the Assembly and in the Committee confirms this position".

That is a clear and unequivocal statement about what has been said in relation to this matter. There is nothing more to be said. What has been beat up by Mr Duby makes a joke of the process.

When you are talking about censure motions, what you really need to talk about is substantive issues. I recall moving a censure motion against Mr Duby on 29 May 1990. I will read out the motion. It states:

> That, noting that for the second time within two years the Minister for Finance and Urban Services, Mr Duby, has been convicted under the Motor Traffic (Alcohol and Drugs) Act 1977, and noting that Mrs Robyn Nolan took the honourable part and stood down from the position of Mr Duby's Executive Deputy following a conviction under the Commonwealth Taxation Administration Act, this Assembly censures the Minister for Finance and Urban Services, Mr Duby, for failing to resign as Minister.

That is a substantive issue. That is not just nitpicking arising from *Hansard.* That is a substantive issue.

**Mr Duby**: Unlike misleading the Assembly.

**MR BERRY**: What they are talking about is a misleading of the Assembly which did not occur. There has never been any doubt of Mr Connolly's position or any other government member's position on the impact of the Government's budget on the Government Service. It has been a clear and unequivocal statement to the community, to the trade union movement and to this Assembly, and Assembly members would do well to recognise that.

To say that there has been something misleading said is an absolute joke. It is nitpicking in the extreme. Mr Duby, hurt, it seems, by Mr Connolly's superior debating skills, has risen to the bait and has sought to attack Mr Connolly without grounds. There has been no misleading of this Assembly; there has been no misleading of the Estimates Committee. Indeed, if the Estimates Committee, at the time, thought that it had been misled it would have raised the issue, I am sure.

We know that Mr Jensen is a meticulous chairman and follows matters through where there is some doubt. He did not raise the issue. It would have been quite proper, if he had taken issue with the comments of Mr Connolly, for him to raise them. He did not. Neither did any other member of the Assembly who was or could have been involved in the Estimates Committee process. That is the shame of this matter. This is nitpicking in the extreme because somebody feels a little hurt by matters which have taken place in this Assembly.

What happened with the motion of censure that I moved on 29 May 1990 was that it was brushed aside by the Government on the numbers. The Government of the day, the Alliance Government, took the view that it was an inappropriate motion. It was a censure motion, for very good and valid reasons. There is no question about that. Whilst one cannot comment on that decision, the decision to put the censure motion was based on valid grounds.

This motion, in contrast, clearly has no basis. No matter how you read *Hansard*, it is clear that the Government's position on the budget expressed by Mr Connolly, or any other Minister for that matter, is that there will be savings made across the Government Service. Mr Connolly has never denied that; neither has any other Minister in the Assembly. I, for the life of me, cannot understand why Mr Duby has taken this matter on, unless he wants to express a vindictive note in this Assembly because of the nature of change of government, and so on.

Mr Deputy Speaker, for the Assembly to carry this censure motion would be a joke. It will be seen as a joke. Any sensible person, anybody with the smallest amount of commonsense who reads the *Hansard*, will determine and detect that Mr Connolly has been entirely honest throughout. He has made the position of the Government clear throughout.

Ms Maher was under no misapprehension. She knew exactly what the Government's position was. Mr Duby knew exactly what the Government's position was. He knew precisely what the Government's position was.

Mr Duby is miffed because of the performance of Mr Connolly in question time. That is what this is about. Mr Connolly's superior performance has miffed Mr Duby. What Mr Duby has had is a lesson in public speaking. This is about antagonism, and vindictiveness; no more than that. It is not about the issues as they occurred, and it should be.

Any of the members opposite who choose to support this silly motion of censure will have to wear the responsibility for taking such a silly position. It is silly. Any selective reading of the *Hansard*, particularly of the Estimates Committee, could result in some misinterpretations, some humorous and some not so humorous, as is the case of this one. I will just give you an example, Mr Deputy Speaker, of a response by Mr Prowse to this question from Mr Collaery:

> I would ask you to seek legal advice as to the effect of the Self Government Act which clearly indicates that we in this chamber are entitled to the immunities and stress the protections according to Parliament. And I put it to you, Mr Speaker - - -

There his question was broken off. Mr Prowse responded in defence of both the Serjeants-at-Arms and said:

> I must say that both our Serjeant-at-Arms, the previous and the present, does have a black belt in macrame and he will protect us to the best of his ability ...

I suspect that the Serjeant-at-Arms does not have a black belt in macrame. On a selective reading of the *Hansard*, one could say that Mr Prowse had misled the Assembly. That is a silly selective reading. It is very humorous, but it is silly. If you read on through the *Hansard*, you will find reference by Mr Collaery to his car spending some time in the middle of a river.

**Mr Collaery**: Don't pick on me.

**MR BERRY**: Did the car spend time in the middle of the river? Who cares? Was it misleading? Did your car spend time in the middle of a river, I ask you?

**Mr Collaery**: It sure did.

**MR BERRY**: For how long - half a day?

**Mr Collaery**: Most of a day.

**MR BERRY**: Most of a day. I had better check the *Hansard,* because if you said "only half of a day" you could be said to have misled the Assembly. That is how ridiculous this whole process is.

Mr Connolly has made it clear from the outset that the Government's budget will impact on the Government Service and there will be efficiency. There has been no question about that; no question from members of the Opposition. This silly, selective reading of *Hansard* has resulted in what is an equally silly censure motion that should fail because any interpretation of *Hansard* will bring one to the decision that is set out in the amendment: "The Assembly notes the agreement by Mr Connolly in the Estimates Committee that there would be efficiencies achieved as a result of the Government's budget and furthermore notes that a complete reading of *Hansard* both in the Assembly and in the committee confirms this position".

**MR HUMPHRIES** (4.59): Mr Deputy Speaker, I will be speaking to support the motion and oppose the amendment. The amendment is rubbish; it is garbage, and I will not waste any more time commenting on it. In terms of the substantive motion, Mr Berry alleges that what Mr Duby needs is a lesson in public speaking, that Mr Duby is jealous and really wishes he could speak as wonderfully as Mr Connolly can.

I have to say, Mr Deputy Speaker, that there is a modicum of truth in that. I wish I could say "No, no" and mean "Yes, yes" as well. If there is some technique for achieving that, actually imparting the impression that when I say "No, no" I mean "Yes, yes", or "Yes" when I mean "No", I would very much like to learn what it is. Perhaps Mr Connolly can tell me. When he conducts his classes in public speaking, I will happily come along. Of course, I will not expect to be charged.

Mr Deputy Speaker, Mr Berry makes the point that this is nitpicking. Again Mr Berry, as is so often the case in this place, forgets his own words and statements from the past. He is very happy to set new standards now that he is in government and forget the old standards he set when he was previously in opposition. I want to remind Mr Berry of an occasion. Unfortunately I cannot locate it in the *Hansard;* so I cannot give more details. Perhaps his recollection might be as good as mine.

I remind him of the occasion when I made a statement to the Assembly, in passing, about a number of things in which I included a reference to the fact that I had not received any objection to a particular proposition or point of view the Government was going to put, or a proposition the Government had adopted. Mr Berry quickly rose, after, I think, question time, in this place to move a motion of censure, as I recall, of the Government because he had

discovered a faxed copy of a letter from Mr Charles McDonald of the Trades and Labour Council in which he had expressed concern or reservations about the particular proposition I had said had no objection or concern expressed about it.

**Mr Moore**: How did you vote then?

**MR HUMPHRIES**: What I did in those circumstances was the appropriate and proper thing. I rose immediately in my place and said that clearly I had been in error in saying to the house that there was no objection, concluding that Mr McDonald's objection did constitute a contradiction of what I had said, and I apologised immediately to the house for having said that. That, with respect, Mr Deputy Speaker, was the appropriate thing to have done then. It would have been the appropriate thing to have done now in this case as well.

To move a motion of censure on that issue, as Mr Berry was trying to do, is no less nitpicking or no more nitpicking than this issue here. From the standards that Labor itself has set, this matter deserves to be debated, because if I had not withdrawn Mr Berry would certainly have moved that motion of censure. If that is worth picking about, if that nit is worth picking about, then so is this nit.

We have heard the defence put forward by Mr Connolly. I listened very carefully to what he had to say to consider whether he has a point and whether he ought to be given the benefit of the doubt. He says that he consistently said, throughout the time that he spent in the Estimates Committee giving evidence, that the Government did not know exactly where cuts were going to be made and was going to have to see what the process of negotiation with the trade union movement would produce. That is a reasonable line, I think.

He detailed the line of questioning that was being pursued by members of the Opposition, members of the other parties. He said that they were homing in on a particular series of issues; that they were trying to trap the Government on those issues. It is nice to have an acknowledgment, Mr Deputy Speaker, that in fact the Opposition did have a consistent and concerted line of attack, which is more than Mr Berry has conceded; but that is another matter.

Mr Connolly then says: "In answering this particular question of the chairman's about the changes in the number of staff employed in licensing related functions in the children's day care services section, I was in fact answering the previous question. That was the theme of the day - additional staff - and I was responding to that theme, that larger theme, rather than the specific question which had been put to me".

There is no doubt, Mr Deputy Speaker; if you look at that particular question you cannot fail to come to the conclusion that in fact Mr Connolly answered the question by saying that there would not be any changes in the number of staff employed. That is clearly the answer he was giving to that question. But I accept that he might have made a mistake. He might have made an innocent mistake, even. Perhaps he was tired; perhaps he did not understand the question that was put to him.

**Mr Connolly**: It was 9.30 in the morning.

**MR HUMPHRIES**: Indeed, it was late at night.

**Mr Connolly**: No, it was in the morning.

**MR HUMPHRIES**: The morning. Perhaps he had had a late night the previous evening and had not been able to - - -

**Mr Kaine**: Perhaps he had had a hard time in the caucus before he got down there.

**MR HUMPHRIES**: Or indeed, he might have had a hard time in the caucus. Perhaps he could not quite collect his thoughts. He was a bit groggy, perhaps, from the early morning battering he had in the caucus and he came in and he did not quite understand what was going on. I would accept that, Mr Deputy Speaker. I would accept him coming in here and saying, "I said words that I really now regret. I really should not have said, 'Will there be any changes? No'.".

**Ms Follett**: He has said that.

**MR HUMPHRIES**: No, he has not said that.

**Ms Follett**: Yes, he has.

**MR HUMPHRIES**: He has not said that. "We will have no need for any additional staff. Any reduction in staff numbers? Yes." He could have said, "I used a poor choice of words. I should have said something different. I used the wrong words". He could have said that, but he has not said that. He has maintained that somehow all the rest of us are wrong. We misinterpret the words he has used and in fact when he really said, "No, no", he meant, "Yes, yes", and if you read the rest of it - the whole context - that is clearly what he was saying. That is not good enough.

If Mr Connolly had come and said, "I was in error. I should have used different words. I apologise for that, but what I really was saying - you can see this from the context - was this", we might have accepted it. But he has not done that, so far. What he should have said at the very outset of this was, "I got it wrong. This is what I meant to say", and there would have been no further debate about this matter.

He says, in fact, that the theme of the questioning was "How many additional staff will there be?" and he was answering that. I have looked at the *Hansard*. There were only two pages previous to the question that was asked that is now in contention. There is, in fact, on those previous two pages - that is, specifically, pages 749 and 750 - no question that I can see about staffing at all. The question on the top of page 751 about additional staff was the first and only question about staffing that was asked of Mr Connolly, that I can discern, in that session on that day. He might find some other question; I certainly could not see it there. That is the first and only question. But now he says, "This was the theme. This had been the overriding theme which was clouding my vision and that was the question I was answering".

That does not really add up, Mr Connolly. If there is only one question, it hardly constitutes a theme which permeates the whole of the questioning that you are facing and constitutes the basis on which you answered all subsequent questions, apparently, in that general area by answering that one particular theme. I might also point out that, as Mr Berry, I think, admitted, the general theme in questioning throughout the period of the Estimates Committee so far has not been what additional staff is the Government going to have to meet; it is what staff reductions are there going to be. That has been the theme of questioning in the Estimates Committee. What staff reductions are going ahead?

That is the question that Mr Jensen, the chairman, was in fact asking on this occasion, at least in part, and that is the question that Mr Connolly answered by saying, "No, no". You cannot have it both ways.

**Ms Follett**: It is not what Norm said.

**MR HUMPHRIES**: I beg to differ. I take the simple words "yes" and "no" in their simple, ordinary, everyday, hoi polloi meaning. That meaning is that "no" means negative and "yes" means positive. The questions were very clearly put; they were not ambiguous. They were not silly questions, as Mr Connolly alleged the other day. They were very sensible questions and he answered them in a way which I think now incriminates him in that sense. I urge him to reconsider his hard line on this matter. For goodness sake show a bit of humility. We can all be wrong - - -

**Mr Kaine**: A bit of intellectual rigour.

**MR HUMPHRIES**: A bit of intellectual rigour, Mr Kaine says. Whatever it is, please show it and let us get onto more important business. Mr Deputy Speaker, one last point; there is certainly evidence in this whole debate of the Government's complete contempt for the Assembly with respect to question time, either in the Assembly or in the Estimates Committee. That is the real problem that we are

facing here today. The Government has contempt for the Opposition. It has decided that the best approach is to give no information out to those opposite; give them nothing to run on, and that will be the way in which they will stay in government until the end of the - - -

**Ms Follett**: I take a point of order, Mr Deputy Speaker. I do not think that this is relevant. If you should rule that it is, then I object to the word "contempt". I do not think that any of us has displayed contempt at all and I think it should be withdrawn.

**MR HUMPHRIES**: I withdraw the word "contempt" and use "complete disdain". They have complete disdain for those on this side of the Assembly. *(Extension of time granted)*

There is complete disdain by those opposite for the process of interrogation which goes on at question time, both in the Assembly and in the Estimates Committee. They have a completely negative attitude towards providing information. They say time and again to this house, "We do not care what the Westminster tradition is with respect to giving information. We have decided that we would rather answer questions outside this place than in this place, and that is the basis on which we are going to refuse to give you information".

**Mr Berry**: When did I say that? I have never said that. I take a point of order, Mr Deputy Speaker.

**MR HUMPHRIES**: You have not said it; I have not said that you said it. But you have certainly exemplified it. Mr Deputy Speaker, those people opposite have said in their actions and their words, time and again, that they do not give a stuff about what happens in this place.

**Ms Follett**: I take a point of order, Mr Deputy Speaker. Apart from the - - -

**MR HUMPHRIES**: I withdraw "stuff", Mr Deputy Speaker.

**Mr Duby**: A tinker's cuss.

**MR HUMPHRIES**: Thank you, Mr Duby. They do not give a tinker's cuss for what happens in the Assembly. In fact, the other day - I will give a good example - Mr Berry provided information by way of a press release before he provided it to the secretary of the Estimates Committee. He does not care what happens in the Estimates Committee or in this place. He would rather parade outside to the general public and to the media than come and do his duty in this place to give information to this Assembly.

**Mr Berry**: What are you talking about?

**MR HUMPHRIES**: You can carry on, Mr Berry, but you know what I am talking about. The fact of life, Mr Deputy Speaker, is that a higher standard ought to be set by those opposite. I might say that, for the most part, most members opposite do at least aspire to that standard. I have a particular Minister in mind who does not, but I will not go into that because that is not relevant; I will concede that at the outset.

In closing, let me say that it is vitally important that we set higher standards in these matters. Mr Connolly, on the standard set by his own party, in particular by Mr Berry in these matters, ought to concede that he has been mistaken and ought to respond accordingly. If he does not, I will, with the greatest regret - I take this action with the greatest gravity, I assure you - have to agree with the motion and vote for the motion to censure him for misleading the Assembly, because I believe that if Ministers are in that position they ought to face up to their responsibilities squarely and not shirk them.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (5.12): I rise to speak on the amendment moved by Mr Berry. It is to the effect that my statements were consistent. I will try to leave aside the political tirade we have just heard from Mr Humphries, directed mostly, ironically, at Mr Berry rather than me; but perhaps that is a one-track mind.

In my original remarks, in my original defence, I said that to the extent to which my remarks - after reading them very carefully myself on repeated occasions - have been taken out of context and can have the effect of misleading, to the extent members feel they have been misled, I apologise. I can do no more than that. I cannot apologise for misleading because I continue to maintain that, read in context, they are not misleading. I certainly have no intention of misleading. I take my obligations to this house very seriously, as indeed do all members of this ministry.

Last year there was an exchange between Mr Humphries and me when I think I, on one occasion, made an allegation which I later withdrew. I cannot remember the context even, Mr Humphries, but when I have made a statement that is inaccurate - and it has occurred in relation to you - I have been very quick to pull it back. I do take my obligations to this house very seriously.

I can do no more than say to members, to members who are looking at this fairly rather than trying to score political points, that to the extent to which you have been misled I apologise; but I maintain that I had no intention of so doing and that, as I read it, my intention was to give a clear and consistent answer in relation to additional staff as opposed to the repeated answers on staff reductions.

So, Mr Deputy Speaker, I can do no more than that; to fairly state my position. It is now for the floor of the house to decide whether they want to look at this issue on its merits or have a game of political football and kick a few heads. I say that I have had no intention of misleading the house, but to the extent to which you feel you have been misled I apologise to you. I say that; I can say no more.

**MR STEVENSON** (5.14): A censure motion is a very severe matter in this Assembly. I think that the Chief Minister's statement that we are only talking about semantics is a little unfortunate. There can be no more important matter than semantics or the correct definition of words, or meanings in general.

**Mr Berry**: Abolish self-government. It is pretty clear.

**MR STEVENSON**: I think that that should certainly go on the record. Abolish self-government is perfectly clear, as Mr Berry said. Indeed, I will continue to work to do just that until we get enough people in this place who go independent, and I mean truly independent, and actually and finally represent the majority, the vast majority, express wish of the people in this community.

I also read with care the particular statements that were shown on page 751 of the Estimates Committee *Hansard.* The chairman asked a question to do with the number of additional staff employed. The key word is "additional". That was the first question. The second question was, "Will there be any changes in the number of staff employed?", to which Mr Connolly replied, "No, no". The thrust of the question was, indeed, to do with additional changes. It was not to do with cuts. However, one could be reasonable in believing that the question, "Will there be any changes in the number of staff employed?" could well relate to cuts as well as additions. That is where the misunderstanding could well be.

It would have been a very simple matter to look at that and say, "Yes, I see how that could have been misleading when 'No, no', was reported in the *Hansard".* But Mr Connolly went on. To the chairman's statement, "Will the situation be able to be handled with the same number of staff you already have at the moment?", Mr Connolly said, "Yes". So, I believe that his intention at the time was to do with additional staff. However, later on, in answer to a question on 17 October, he said:

> ... did we need more staff, and I was clearly giving assurances that more efficiencies were being sought and we did not need more staff.

I think that was indeed the case. But he also said:

> ... I am utterly confident that on page 751 I made no statement that could be taken to be misleading.

That is certainly not correct. The statement could well be taken to be misleading, though unintentionally in my estimation. I think the difficulty is that there has not been an open look and a genuine answer to the concerns of some members of this Assembly about what exactly Mr Connolly meant at the time. I think there has been an attempt to suggest something other than what happened.

As for the general way in which questions were answered in the budget Estimates Committee, I think some valid points have been made. I think it is unfortunate that these things degenerate into political actions, if you like, rather than just an attempt to get at the truth of the matter. Regardless of any goading that may incite someone to take other action, one does not have to be goaded in answering questions. Mr Berry has a rather wry look on his face. It has got a little bit more wry. I am trying to determine exactly what it means. Could you quickly interject, Mr Berry?

**Mr Berry**: No, no, I would not interject.

**MR STEVENSON**: So, I think there is a major problem. I do not think the censure motion is on the right question. One could well suggest that there could be a censure motion against people in this Assembly, Ministers, for not answering questions correctly, for not answering them fully, in fact for not answering them at all in some cases. I think that is an important point that should be raised in this Assembly.

I think that the level of debate that this Assembly often degenerates to is appalling, and is considered so by members of the public who attend from time to time. I speak to any number of people who come along on different issues and, without asking them what they think of the standard of debate, they tell me that they are appalled; they did not know that that is what happens in here. I do not see any sense whatsoever in calling people names. I think we accept statements from people in this house that we would not accept from our children. I think it would behove all of us to improve our game. That is what the people clearly want.

**Mr Berry**: Now I am really amused. Dennis rising above all of this.

**MR STEVENSON**: Mr Berry laughs and says something about Dennis rising above this. I have never resorted in this Assembly, or anywhere else, to name calling. I prefer to spend the time I have on addressing the issue. If one had nothing to say, one might spend time calling people names. Children call others names simply because they cannot effectively debate an issue and that is the best they can do. The people really do not expect that in this Assembly.

This may not be pertinent to the exact point of the censure motion, but I think it is pertinent to why the censure motion was brought. Perhaps the Minister in future should look to a genuine attempt to address any issues or any concerns raised by members in this Assembly on behalf of constituents who are concerned about the standard of debate. I think the Minister has said that he apologises if the matter was misunderstood. I truly do not believe it to be deliberate misrepresentation, although Mr Duby did not say that it was deliberate misrepresentation. Mr Connolly could have handled this position very easily. It is unfortunate that he did not. I do not believe that it warrants a censure motion or the passing of a censure motion.

**DR KINLOCH** (5.22): On one occasion in this house I deserved to be censured, and I regret that occasion. I thank the Chief Minister, Mrs Grassby and Mr Prowse, then the Speaker sitting where you are, Mr Deputy Speaker, for not treating me in that way. I thought they were being gentle and thoughtful at a time when I, frankly, had lost my cool and had done a stupid thing, for which I then apologised. I should not have done it. I regret it. I heard Mr Connolly make an apology in an earlier speech and I heard him, three times, make an apology in this latter speech.

I am not going to go into the details of the Estimates Committee. It seems to me that there is right on both sides. There is right on the point of view that Ms Maher and Mr Duby have put forward, and Mr Jensen as well. They can point to certain words that mean certain things, and it would seem from their point of view that a mistake has been made. Similarly, I hear Mr Connolly and I am recognising what he has to say.

I would like to turn finally to the ministerial statement from Mr Berry on Mental Health Week and I notice that it concludes:

> It is a week for the entire community to consider a "gentler society".

I ask that we remove ourselves from this censure motion.

**MR MOORE** (5.24): Mr Deputy Speaker, in beginning my speech I will draw attention to the fact that, although I attended a great deal of the Estimates Committee, more than most members, on the particular Tuesday morning that these questions were raised I had been invited to the United States Information Service for a world network program on drugs, which I was delighted to attend. At that time I was not able to be there and, therefore, it is difficult for me to assess the tone that was present as far as answering questions goes. But I am in a much stronger position than Ms Maher and Mr Duby for the amount of time that I did attend while Mr Connolly was speaking and was questioned.

It seems to me, reading back over that transcript, that what members are missing is an understanding of tone. The closest we got to an understanding was when Mr Duby said earlier that it was quite clear that Mr Connolly actually did not mean to deliberately mislead the house. If Mr Connolly did not mean to deliberately mislead the house, why the hell have we got a censure motion before us? I think that is a very important question to ask. I think it is entirely inappropriate, at this time, to have a censure motion over this issue.

Even if we accept the censure motion, the points that Dr Kinloch has raised are most appropriate. We have had a series of apologies from Mr Connolly, confined, I grant you, to the extent to which this could have been misinterpreted or misunderstood. He has referred, of course, to the difference between the words written on the page and the tone. We had an example earlier about the Speaker referring to macrame.

There is another example that comes clearly from that same *Hansard* the other night when Mr Collaery responded, obviously in a light-hearted tone, "Well, my car spent a day in the middle of a river recently and I think it needs replacing soon". The tone is, quite clearly, very light-hearted; but it is true to say that Mr Collaery, a little earlier in an interjection, said something like, "Well, it was about a half of a day, or a little more than half of a day", or something. One could argue that there was a conflict in what Mr Collaery was saying and in some way he was misleading the house about how much time his car spent in the middle of a river.

I think tone is an absolutely critical part of what we do. Quite clearly, the whole issue has been taken right out of context. I would say that it has been taken right out of context simply for political point scoring. I do not want to be particularly hypocritical. There have been times in this house when I also have sought blood, or scored a point. I think that is a nice way to say it. I think it is fair to say that, in raising the issue that Ms Maher raised, she was about scoring a point or about catching Mr Connolly out, and to that extent she has done so and he has apologised.

It was followed up in question time today when Mr Duby, in an interjection, said that Mr Connolly got it wrong, that he had misled the house. Mr Duby was put in a corner by the Speaker because the only thing left for Mr Duby to do was either to bring on a substantive motion or to withdraw what he had said about misleading the house. He got himself in a corner. The result of that is that this Assembly has spent an hour and a half, or whatever it is, debating in order to get Mr Duby out of a corner that he had put himself in instead of saying that he would withdraw what he said about misleading the house.

We have had an amendment put up by Mr Berry. I think it is far wiser simply just to vote against this censure motion and save censure motions for serious matters. When we get a serious matter where a Minister has deliberately misled the house and the evidence is clear, then I will certainly support such a censure motion. I do not think this does that.

**MS MAHER** (5.28): Mr Deputy Speaker, I seek leave to move an amendment to the motion and to delete the word "censures" and substitute "admonishes" - - -

**Mr Stevenson**: I raise a point of order.

**MR DEPUTY SPEAKER**: What is the point of order, Mr Stevenson?

**Mr Stevenson**: Ms Maher should just seek leave to make an amendment, first of all.

**MR DEPUTY SPEAKER**: She has. She is doing that.

**Ms Follett**: She has not been granted leave, though, Mr Deputy Speaker.

**Mr Moore**: She is seeking leave to tell us what she wants to do.

**Mr Collaery**: She has not finished her seeking of leave.

**MR DEPUTY SPEAKER**: Yes. What are you wanting to do? You might as well tell us that, Ms Maher.

**MS MAHER**: I seek leave to move an amendment to the motion.

Leave granted.

**MS MAHER**: I move to delete the word "censures" and substitute "admonishes", and also to delete the words "misleading the Assembly in". If I can get that - - -

**MR DEPUTY SPEAKER**: If you hand that up, it can be photocopied and circulated to members.

**MR DUBY** (5.29): Mr Deputy Speaker, I would like to speak to both of the amendments. I think the first amendment that has been circulated by Mr Berry hardly warrants any debate at all. I think most members of the Assembly have recognised that fact in not addressing any of the issues that he has raised in that supposed amendment, which turns it into a song of praise for the Government. Throughout this whole debate about the censuring of Mr Connolly - - -

**Mr Berry**: I raise a point of order. It seems to me that Ms Maher sought leave to move an amendment. She has not moved it and now Mr Duby speaks.

**MR DEPUTY SPEAKER**: I think we have to vote on yours first, before she can.

**Mr Duby**: She introduced it without speaking to it.

**MR DEPUTY SPEAKER**: The only thing is, Mr Berry, that she wants to move an amendment to your amendment; but it is clearly not that, so we have to vote on your amendment first.

**Mr Berry**: Has it been moved? It has not been moved then.

**MR DEPUTY SPEAKER**: No, it has not. I do not think it has been moved yet, so we have to vote on yours first, then she moves hers.

**Mr Kaine**: She sought leave and then she moved it.

**Ms Follett**: She sought leave to move it, which we gave.

**Ms Maher**: I sought leave to move it.

**Ms Follett**: But she has not moved it.

**MR DEPUTY SPEAKER**: We have to vote on Mr Berry's amendment first, though; otherwise we end up with all sorts of complications.

**Mr Duby**: That is why I said that I would speak to both of these amendments.

**MR DEPUTY SPEAKER**: I think the preferable thing would be to vote on Mr Berry's amendment and then continue with Ms Maher's. I think we have to vote on Mr Berry's first. If the house disposes of that, Ms Maher can then move hers and we can vote on that. We will vote on Mr Berry's amendment and then we can have further debate on Ms Maher's, if need be. We need to do that because hers is not an amendment to Mr Berry's motion.

**Mr Duby**: I thought I could speak to both.

**MR DEPUTY SPEAKER**: No. They are very different amendments; that is why.

**Mr Duby**: Let us vote on Mr Berry's.

**MR DEPUTY SPEAKER**: The question is: That Mr Berry's amendment be agreed to. Those of that opinion - - -

**Mr Berry**: We have not got to that point, Mr Deputy Speaker, have we? It seems to me that there may be further speakers on the matter. I think we have to exhaust the list of speakers before we get to the point of dealing with the questions.

**MR DEPUTY SPEAKER**: We can keep debating your amendment, Mr Berry; but we cannot do Ms Maher's until we get rid of yours, one way or the other.

**Mr Berry**: We are still debating the substantive motion, as I understand it.

**MR DEPUTY SPEAKER**: We are debating both of them, your amendment and the substantive motion.

**Mr Berry**: It strikes me, therefore, that we do not go to the questions until debate is concluded.

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

> That the question be now put.

Question put:

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

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

**Mr Prowse**: Mr Deputy Speaker, I would like to advise the house that Mrs Nolan has apologised for not being able to attend today. She has been called to Sydney on urgent business.

**MR DEPUTY SPEAKER**: Thank you, Mr Prowse. That is noted.

The Assembly voted -

| *AYES, 5* | *NOES, 10* |
|---|---|
| Mr Berry | Mr Collaery |
| Mr Connolly | Mr Duby |
| Ms Follett | Mr Jensen |
| Mrs Grassby | Mr Kaine |
| Mr Wood | Dr Kinloch |
| | Ms Maher |
| | Mr Moore |
| | Mr Prowse |
| | Mr Stefaniak |
| | Mr Stevenson |

Question so resolved in the negative.

**MR DEPUTY SPEAKER**: I call Ms Maher.

**Mr Berry**: Mr Deputy Speaker, I move:

That the question be now put.

**MR DEPUTY SPEAKER**: We have an amendment.

**Mr Moore**: We do not have an amendment. It has not been moved.

**Ms Maher**: Excuse me - - -

**Mr Berry**: It has not been moved.

**MR DEPUTY SPEAKER**: Leave had been granted. I recognise Ms Maher.

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

**Mr Collaery**: She has moved her amendment.

**Ms Maher**: I moved my amendment. I sought leave. I was granted leave.

**MR DEPUTY SPEAKER**: She has, I think, moved her amendment. We had a technicality in relation to your motion.

**Ms Maher**: I sought leave and I was granted leave to move an amendment.

**Mr Moore**: You did not move it.

**Ms Maher**: I did. I got up and I said, "I move to delete". I was given leave.

**MR DEPUTY SPEAKER**: Mr Berry, I think you are technically correct in that your motion was before the Chair; so you do have the call. If the Assembly wishes to take another course - I appreciate Ms Maher's point and the fact that she wanted to talk to her amendment - you can simply vote against Mr Berry's closure motion. The technicalities of the situation are that Mr Berry's motion is before the Chair. The only way Ms Maher's amendment could be dealt with properly was to dispose of Mr Berry's amendment first so that she could in fact move her motion. We had to get rid of Mr Berry's amendment first. Mr Berry, you did move the gag and we have to vote on that. Members are quite free to vote against it if they want Ms Maher to talk to her amendment. The question now is: That Mr Berry's motion be agreed to.

Question resolved in the negative.

**MS MAHER** (5.42): Can I have some clarification? Have I actually moved the amendment? As far as I understand, I sought leave to move, that was granted and then I moved it.

**MR DEPUTY SPEAKER**: Leave was granted. You now move your amendment and talk to it.

**MS MAHER**: I move:

Omit the word "censures" and substitute "admonishes"; and
Omit the words "misleading this Assembly in".

Basically, the reason for that amendment is that I accept Mr Connolly's apology.

**MR DUBY** (5.42): I started the whole ball rolling this afternoon; so it might be appropriate for me to finish it. There is one thing I would like to point out. During the debate Mr Moore suggested that this somehow was brought on by me in an effort to get out of a sticky situation in which I found myself. Nothing could be further from the truth.

The bottom line of the matter, I think, has been acknowledged by Minister Connolly this afternoon. It should be pointed out that the original motion was to censure Mr Connolly for statements that he had made in this Assembly about his evidence to the Estimates Committee, not statements that he had made to the Estimates Committee at all.

A lot of points have been made to and fro this afternoon about what Mr Connolly intended, what he actually said to the Estimates Committee, what he did say, and what he did not say. The point remains that the motion originally attempted to censure him for answers given in question time in this Assembly. If people go through the answers given in question time, they will see that Mr Connolly had adopted a very arrogant approach to legitimate questions from members of this Assembly requesting information.

**Mr Collaery**: And memos.

**MR DUBY**: In addition to that. I must admit, however, that I am prepared to accept that there may well have been some confusion on both sides of the fence about whether the answers given to this Assembly were misleading. I accept, accordingly, Mr Connolly's statement. I have written it down. This is what he has said: "The extent to which you" - meaning we members - "have been misled, I apologise, and I had no intention of misleading".

On that basis, I am quite prepared to accept this amendment as moved by Ms Maher, and I think that most members of this Assembly should do the same.

Amendment (**Ms Maher's**) agreed to.

Question put:

> That the motion (**Mr Duby's**), as amended, be agreed to.

The Assembly voted -

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

Question so resolved in the affirmative.

**Sitting suspended from 5.48 to 8.00 pm**

## POLICE FORCE FUNDING
## Discussion of Matter of Public Importance

**MR DEPUTY SPEAKER**: Mr Speaker has received letters from Mr Collaery, Mr Jensen, Dr Kinloch and Mr Stevenson proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, Mr Speaker has determined that the matter proposed by Mr Stevenson be submitted to the Assembly for discussion, namely:

> That the action taken by the Government to cut funding to the ACT Police Force is unwise and does not have the support of the people or the police.

**MR STEVENSON** (8.01): There is strong support in the ACT for our police force. Certainly, in this Assembly the members strongly support the police force. I understand that the ALP have certain budget cuts that they have to look at. However, I think it is unwise to look towards the police force to make cuts. Let me explain the reasons.

First of all, what does the public in Canberra want of its police force? What type of police do they want? The Community Policing Advisory Committee was an excellent idea. It brought together people from various walks of life and with various interests, to bring about an excellent police force in the ACT.

There are a number of recommendations in the report of the committee. Under "Majority Community Views on Community Policing in the ACT", it referred to resources, as follows:

> There is general support of the current level of police activity and a general concern that resources not be reduced.

Under "Specific Views of Various Sectors of the Community on Community Policing", it referred to young people being helped, particularly through the implementation of the police in schools program, increased police involvement in education, recreational facilities and other areas, and the value of having police involvement in youth worker training. Further on it spoke about the police mounted unit proposal, and I think this would be an excellent idea. It also talked about increased foot patrols being generally supported by recommendations from the small business sector.

I think we understand what people want from their police force. They want their police in Canberra to be visible. They want visible vehicles, visible police. They want them out on foot patrol where possible. They believe that there should not be fewer cars, but more. They want their police available after hours. Many people are concerned. For safety in certain circumstances, they find it important to have police available after hours. One of the recent community policing initiatives in the ACT - there have been many and they are commendable - is the bike patrol. What an excellent idea that is. Another is police in schools. This is an absolutely superb idea.

At the moment the Social Policy Committee in this Assembly is inquiring into behavioural problems in young people. We are trying to work out methods to assist young people to gain maturity with responsibility, and it is a difficult task. An excellent way to help young people, particularly those that find themselves alienated from society, at least in the area of law and order, is to encourage them to look upon police as people that can assist them. We know that police will assist them. The division between young people and the police that is apparent to some is not a desirable thing, and we should do all we can to reverse it. Some of the excellent community policing ideas that have been proposed move a long way toward that.

The Neighbourhood Watch program in the ACT is working very well; it has involved many thousands of people. The comment by Mr Connolly about Neighbourhood Watch being vocal law and order activists could, of course, be taken two ways. They are active in bringing about certain reform and changes, and it is wonderful to see people in community groups doing just that. Neighbourhood Watch particularly have been working to bring about a greater cooperation between the community and the police. I think most people agree that we will never have an effective police force unless they are supported by the community. We are lucky in the ACT to have a community that very strongly supports their police force.

That brings me to the question of budget cuts. Recently Mr Connolly was reported as suggesting that the public meetings the Liberal Party arranged on the police budget cuts - and I commend them on that - were not particularly representative of the community. We have surveyed recently the community's will on the police budget cuts. The question asked whether people were for or against police budget cuts. Some 200 people were questioned in the shopping areas in the city and Woden, and the results were 79 per cent against budget cuts for police, 20 per cent for, and one per cent informal.

The findings in the Community Policing Advisory Committee report have been borne out very strongly by that survey. It shows that people are very strongly behind their police and they do not wish to see budget cuts. Other surveys done by Frank Small show various aspects of concern by people in the ACT about the police force. It was encouraging to find that a large number of people across very many important areas thought the police were doing a good job and were doing it better and better. There were very few areas where the community had concerns about not being well looked after.

We need consultation in these matters. There has not been enough consultation with the police force. I do not wish to turn this matter of public importance into a political debate, as it were, or a political ideological debate or party political debate. We all agree that we need a good police force, but we need to work together in this Assembly. It is not a matter of carping at the ALP or anybody else. Let us work together and see what can be done to enable us not to cut the police budget. When we look at budget cuts, $1.2m may seem to be not a great deal. However, in real terms, we could consider a situation where policing funding could be increased rather than decreased. At least let us maintain police budgeting.

Some consultation has been going on since the budget cuts were announced. Indeed, a draft agreement has been drawn up between the Australian Federal Police and the Police Association on changing certain management practices or improving them if they can. One is a review of rosters. Another is the potential savings that can be made by not requiring police to attend for long periods in courts, and Mr Stefaniak and a number of other members of this Assembly would understand that. In my time as a policeman, I must have spent literally months, day after day, sitting in courts, waiting around, not necessarily to any benefit - - -

**Mr Kaine**: Were you guilty or innocent?

**MR STEVENSON**: I have been found innocent again and again. Someone mentioned to me recently what happened when I was accused of various things. The person said, "Let me assure you that, if the Labor Party had anything decent on you, they certainly would have used it". From the various investigations that have been conducted around the place, I think we could validate that. There is a lot of smoke and a lot of name calling.

Police time could be saved if there were effective methods for requiring police to be in attendance at court only when they are actually required. Canberra being a fairly small place, one of the methods would be to have them on call, perhaps with a quarter of an hour's notice, to give them an indication of when they are going to be required. No doubt there are many other ways. I think that is a worthwhile area to look at, and indeed it is being looked at. Response times to call-outs is another area for consideration, and we look at four priorities now. If we have a situation where the Attorney-General needs police protection, say, he gets a priority one, not a priority four.

We need to remember that police have been undergoing cuts for some time. About eight months ago, the police motorcycle unit was cut from some 30 to 15, I believe, and there have already been large reductions in shift work and overtime. The Tuggeranong watch-house function has been downgraded from a 24-hour shift, and the police rescue squad was restricted to operating on the south side of Canberra, the north side being looked after by the fire brigade. I believe that there are some concerns about the workability of that arrangement. I know that the police rescue squad responded not only to major police rescue calls but also to other general duty police work. I suggest that we work together on this matter. We should look not to cutting the police budget but to maintaining it without cuts, and give the people of Canberra the police force they want.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (8.12): It is with some resignation, I suppose, that I rise at 12 minutes past 8 on a Tuesday night to deal with what is claimed to be a matter of public importance. As I face the packed benches of the Opposition and look at the massed assembly of the press gallery facing the Government in its moment of crisis, I really wonder why we are going through this.

I was incredibly tempted this evening simply to get up and read verbatim yesterday's *Canberra Times* editorial, because that said it all. It said that the Police Association in their remarkable political campaign had overstepped the mark. It said, accurately, that most ACT politicians accept that we live in an era of restraint where we must make realistic decisions. Mr Kaine and I have often crossed swords, and no doubt we will continue to do so until the next election. That is the way it should be in an open democratic system. But Mr Kaine is a person who has looked at a balance sheet or two in his time and who knows the reality of economics.

I quoted a statement of his repeatedly to the Estimates Committee, much to their annoyance; but as I said then, and I will say it now, he put it as well as I could have put it. On 8 August last year Mr Uhlmann in the *Canberra Times*, under the heading "Budget cuts likely for ACT police", said:

> The ACT section of the Australian Federal Police could face budget cuts from next year, the Chief Minister, Trevor Kaine, said yesterday.

It quotes Mr Kaine, then Chief Minister and Treasurer, as saying:

> There is no continuing commitment beyond this year and we will have to review [the police budget] and make a decision about what it should be from then on.

That was in the context of the first year of the police agreement, in which the Commonwealth had agreed to fund the whole package. That first-year agreement, it should be noted, involved a remarkable 14 per cent increase in the police budget from the year before. In the last four years the police budget has jumped 47 per cent.

Mr Stevenson says that there has been an ongoing history of cutbacks and reductions in the AFP budget in the ACT; that is simply not so. We spend now, after the allegedly awful Labor cutbacks, 47 per cent more than we did four years ago. That is vastly above the rate of inflation. Mr Kaine then said, and this is the quote that I used repeatedly, and it is a very sensible statement from Mr Kaine:

> The police force will be like any other element of the community and if we have to make cuts they will have to bear their share.

In the lead-up to the budget there has been some alarmism. There have been statements from opposition members - that is their job, and I do not begrudge their attacking the Government; that is what they are there for - that the Labor Government was going to be targeting the police force, attacking the police force, and so on. I said to

the *Canberra Times* and I said to the Police Association, "That is not so. We will not be targeting the police force". However, I made it clear that in the context of major cutbacks on the Territory budget the police would have to bear their fair share, and that is what has happened.

We have an environment of massive cutbacks on Commonwealth funding. From day one, when we assumed government, Ms Follett, the Chief Minister and Treasurer, has been very frank with the people of Canberra. We went through the remarkable process, the unprecedented process, of a budget forecast statement which laid out the cold, hard facts. Again taking out partisanship, the former Treasurer and Chief Minister said much the same thing.

It was clear that the Commonwealth had chopped us off at the knees with funding. As the *Canberra Times* said in the editorial yesterday, we have taken something like a 20 per cent cut. It is simply not possible to quarantine the police budget. That was my position from day one on this. That was the position last year of the Liberal Party, from its leader, and I believe that that remains the position.

There was some confusion in this campaign, and I think that confusion from the Police Association has been extremely well documented by the *Canberra Times*, both in its editorial yesterday and its leading article on Thursday of last week, I believe. The Government has been remarkably consistent on this. We have said that the ACT must have a police force it can afford, that we must move in a direction in which the Grants Commission has repeatedly said we must move, that is, a police force that is within the bounds of the funding and expenditure in other States and Territories.

One of my first moves on the Labor Government returning to office was to say to Senator Tate that we believed that the balance between Commonwealth and Territory funding was not right and that there should be a move in the direction of more Commonwealth expenditure on police officers. We achieved in our first few months of government almost a doubling of the number of Commonwealth-funded officers. I emphasise "Commonwealth-funded officers", not officers who perform Commonwealth functions.

Every member of the 706-strong Australian Federal Police Force in Canberra performs a mixed bag of duties. They do not wear a hat which says, "Commonwealth Police Officer" or "Territory Police Officer". They are out there doing general policing. If there is an incident at an embassy or at Parliament House or if there is a national demonstration, they will attend, just as they do if there is an incident at a shopping centre or a pedestrian precinct. Every police officer performs both Commonwealth and Territory functions.

It is abundantly clear that, if we were a community of 300,000 and not the national capital, we would not need 706 police to provide the security that this community rightly demands. We would need far less than that. I believe that the New South Wales police, when asked what they provide for a community of this size, were looking at a force of something in the order of 250. That may be well below what is required, but we clearly would not require 706. We doubled the number of officers funded by the Commonwealth in our first few months in office, and that was a significant achievement.

The police budget has been, one could almost say, out of control; at least it has been showing growth at an unprecedented rate in the last few years. The documentation attached to last year's Grants Commission report showed, as I said earlier, 47 per cent in the last four years. In the year in which the police contract was signed - the contract that was rather severely criticised by the *Canberra Times* in yesterday's editorial - the budget increased 14 per cent, in a climate in which inflation was well below that.

What Mr Kaine said last year was absolutely right, and we did not criticise it. Mr Kaine said that we have one year's guaranteed funding for the police, that the Commonwealth have said that they will pay the whole tab. Beyond that the Commonwealth have said, "You are on your own. You will get general grant funding, as in every other area, and you will have to sort it out yourself". What Mr Kaine said last year was essentially what we said: The police will have to take their share of cuts.

When this announcement was made the Police Association said, "Shock, horror! You have told us to absorb this in administrative costs and overtime and penalty rates, not in staff numbers. We demand that we lose some jobs". That was their view, well reported in the editorial yesterday. Again I give the Liberal Party credit for not attempting to deny their statements of last year. Mr Kaine maintained a very clear and consistent line on this. Quoting from the *Canberra Times* of 9 October:

> Mr Kaine said he agreed the police could not be quarantined from ACT Budget cuts, but he disagreed with the way in which the Attorney-General ... had implemented reductions.

At that stage the Government was saying that we would like, as our first best option, for police management and the police unions to talk about ways of achieving this saving, which is, at the end of the day, 2 per cent, at a time when, as the *Canberra Times* said, most other programs have been cut by something like 8 per cent and the Territory as a whole has had a 20 per cent reduction in Commonwealth funding. Mr Kaine said, "You should not try to quarantine it only to the discretionary budget; you should go across the board".

That view was reflected by the Police Association. The Police Association were saying on Friday of last week or the week before that they would be happy if we broadened the basis of cuts, and they wanted me to chair the meeting. The Government, consistent with the approach we have taken from day one and the approach we took in opposition, said, "We will listen to the reasonable views of the community; we will listen to reasonable views of the Opposition". We had hoped that we could achieve this in savings only in the discretionary budget. The association wants us to broaden the basis of savings; the Liberal Opposition wants us to broaden the basis of savings. We will broaden the basis of savings.

The association said that they wanted me to chair meetings and broaden the basis, and I said that we would do that. That resulted in an extraordinary statement on ABC current affairs radio that the dispute had been resolved and everybody was happy. But by Monday morning we had got to the position where a spokesman from the Police Association was saying, "Mr Connolly should butt out. We do not want you involved at all. On Thursday we wanted you to chair talks. On Monday we do not want you involved at all".

We had agreed with the proposition put forward by the association and by Mr Kaine, and Mr Kaine has been consistent throughout this debate and last year. We said that the Police Association and police management should work out ways of achieving policing for this Territory within the constraints of a budget of $53.4m, which is a mere 2 per cent less than last year, in a context where they have grown by 47 per cent and where the Grants Commission last year said that we were spending $10m more than we should on policing. We wanted to take $1.2m off their budget, and we had achieved an additional Commonwealth benefit that was worth something like $3m.

We said that we were about halfway towards getting where we should be. We had wanted to do it, initially, without looking at jobs. I think that was a sensible proposition and, again, it was consistent with the overall approach the Labor Party has taken of avoiding job cuts to service delivery areas. The union did not want that; the Opposition did not want that. We said, "Okay, you can talk about whatever you want to talk about. Just show us a way, negotiate a way of achieving policing within those constraints".

Despite the rhetoric, despite the nonsense, that is essentially what happened. Management and union sat down and talked. We have agreed to broaden the basis, although I think that when it is announced tomorrow afternoon you will find that we will not be losing much in the way of police numbers and that the Government's original position - that savings could be achieved without cuts in numbers - will essentially be borne out.

We will find over the next 12 months that we will have a high-quality, efficient police service for this Territory, as we have enjoyed for many years, but done with a little less money. Even Mr Stevenson admitted that. He said that in his experience as a police officer in years gone by he had spent many hours, probably adding up to months, hanging around the Magistrates Court waiting to give evidence. It is clear that in areas such as that - and Mr Stefaniak and Mrs Nolan have acknowledged it - there are savings to be made.

There was an enormous amount of rhetoric, of stuff and nonsense, about police cuts in the first few weeks. There was this "You are all going to be killed in your beds" shock, horror stuff. I described it at the time as a political campaign. I think that was quite accurate. The meetings were chaired by a then member of the Liberal Party who is now running for office again as a separate party. That is Mrs Nolan's democratic right, and it is her democratic right to run on what may be called a law and order campaign. But I say again that the alarmism that was agitated at the time was merely that.

What critics of the Government's budget cuts will have to face up to in a few months' time - and I do not include the Leader of the Opposition in this because his statements last year and this year have been consistent - is that the AFP can operate in a climate of restraint, just as every other arm of administration can and just as, let us face it, every arm of private enterprise can. It is not only the public sector at Commonwealth and State level that has had to operate in the last few years in an environment of repeated savings, repeated economies, repeated ways of doing more with less; the private sector has had to do the same thing.

The Australian Federal Police, which is a fine body of uniformed officers and a competent body of managers, will achieve ways of delivering to the people of the Australian Capital Territory the high-quality police service they have come to expect. I am utterly confident that they will achieve that within the constraints the Government has imposed upon them. I am reassured by the remarks in yesterday's editorial, which very rationally and reasonably essentially reiterated the Government's campaign. The scaremongering of certain members of the Opposition has been discredited. The Government will be successful in its responsible approach to delivering a police force we can afford.

**MR STEFANIAK** (8.27): Contrary to what Mr Connolly says, I think what he calls the scaremongering of certain people in the Opposition has been totally vindicated. I listened with interest to his speech because he and the Government have come back from the crazy, ludicrous position of potentially having substantial cuts made to the wrong area of the ACT police budget, that is, the operational area.

There has been a lot of pressure from the Police Association, from the Opposition and, indeed, from the community. I understand that the petition now has over 10,000 signatures, and members of the community attended the two meetings held by my colleague Mrs Nolan and me and also wrote letters to the editor. I think it was quite clear to the Government that there was a lot of feeling about this issue. The Government has pulled back from its previous untenable position, and I think that is very sensible.

Mr Connolly talks about police cuts. As he says, quite rightly, it was never the Opposition's position - nor could it be, when even the Police Association indicated that they were always willing to look at reasonable cuts which did not affect their operational efficiency - that there should, as a bottom line, be no cuts. That was no-one's position. The police were always quite happy to look at reasonable cuts. Indeed, tonight Mr Connolly and Mr Stevenson have flagged one area where $300,000 a year is wasted and can be saved, and that is in police hanging around courts for hours and even days on end. That is something the police are looking at, and it will be taken up in the ultimate settlement of this issue. In any budget, there are always areas that can be cut.

However, I do not resile from any comments I have made on this issue. I restate one fundamental comment: The first duty of any government is the security of its citizens, and that is provided in a Territory or State context by its police force and in a national context by its defence force. When one is looking at budgetary cuts in various areas of government, the last area that should be cut is the ability of government to provide security for its citizens. In this context, the bottom line is the police operational budget.

When one talks about cuts across the board, I suppose no area of government is sacrosanct. The police have never said that they expected to be sacrosanct; they just wanted reasonable cuts. Unfortunately, for about two weeks this Minister and this Government were quite unreasonable about it. They wanted those cuts to come out of one area of the police budget, and that is the operational area. I think the Estimates Committee meeting of 27 September indicated that the majority of the cuts were to come from that area.

A proposed $240,000 out of the $1.2m was coming from another area under the direct control of this Government - police executive services or something like that - but, basically, that $1.2m was coming out of the $10m operational area, from a $53.4m total police budget. That represented 20 per cent of the operational budget. When one looks at the time at which that was meant to come out - February, when we are already two-thirds of the way into the financial year - as the Police Association said, that represented some 15 per cent of the operational budget.

There is not much point in having a lot of police around on duty - paid for by the Commonwealth or paid for by the ACT - from 9 to 5, Monday to Friday, because a hell of a lot of crime happens at night and on weekends. At the Estimates Committee, Assistant Commissioner Dawson agreed that the majority of assaults occurred outside normal hours. In fact, when one looks at the figures provided on burglaries, the majority of burglaries, which are prevalent while people are at work or away from home during the week, occur outside normal office hours.

There was a question of security as well, and questions were raised at the public meetings and in the Estimates Committee as to what would happen when the watch-houses closed and police cars had to go into Civic, often for up to four hours. What would happen, with only one car in Tuggeranong, when there were two disputes - perhaps a domestic dispute out at Chisholm and a big pub brawl at the Kambah Tavern? According to Mr Connolly, cars would have to come from the rest of Canberra to attend to those matters. What happens if the car from Belconnen comes in and something goes wrong in Weedon Close, Belconnen, and police are needed there because there is a stabbing? These things do happen.

In recent years Canberra has become, for a number of reasons, an increasingly unruly and violent society, as evidenced by other figures given to the Estimates Committee. The number of prosecutions the DPP did increased from about 8,500 to about 14,000 over the last financial year. That is indicative of the fact that Canberra is not the nice, safe little country town it used to be 20 years ago. We need a police force that is able to do its job properly.

The police, and I know many of them from my days as a prosecutor, take great pride in their job. They were at the meetings, too, and I was somewhat upset, to put it mildly, at threats made that they could not speak out, threats by this Government and this Attorney-General that police would be disciplined if they did. If any police spoke out, and several did at the Tuggeranong meeting, it was because of pride in their job, the fact that they want to do their job properly, that they want to protect the Canberra community and were concerned that they were being deprived of the ability to do that. That was a very real problem.

Another factor is the industrial issue of occupational health and safety, and I have referred to this on a couple of occasions in this house in recent weeks. If police get into a nasty situation and other police cars have to come to bail them out, if other police are not on duty there can often be a life-threatening situation. I have been involved as a prosecutor in situations where police response was slow, but at least it came.

A male and a female police officer were quite seriously injured at a domestic brawl in Belconnen that also involved a few members of the family - I think a husband and a couple of his brothers were there and quite drunk - before other cars came. At least the cars came; but, with the way these cuts were going to be administered, that might not have happened and we might have had a very serious situation on our hands. That was the human reality of the situation. There has been unprecedented pressure from the police, including what I would describe as responsible industrial action.

**Mr Connolly**: Backing the unions. Good to see.

**MR STEFANIAK**: I completely disagree with the *Canberra Times* editorial in that regard. Sometimes the *Canberra Times* is very favourable to the Labor Party, Mr Connolly; I think that is fairly well known. This is no different. In fact, talking about *Canberra Times* editorials, I can remember in April 1989 the *Canberra Times* being very much in favour of move-on powers; yet, when I introduced the Bill, in its July editorial that same year it was dead against them. I would not set too much store by that editorial.

**Mr Stevenson**: They should be moved on.

**MR STEFANIAK**: Maybe they should be. At any rate, that industrial campaign, which did not affect the safety of Canberra's citizens - they were still being booked; the police just did it in a different way - along with community reaction and, indeed, the Opposition's reaction, made this Government, which had been very arrogant on the issue and refused to consider looking at cuts in the budget, look at the issue again. I was pleased to see Mr Connolly offer his services to chair the meeting. I offered to do it, but I did not get any response from Mr Connolly. I suppose that is understandable. At least he finally seemed to see a little sense. The dispute is not over yet, but I hope that commonsense will prevail.

In the last couple of weeks we have seen this Government accept that the cuts should come from across the board. If the Police Association, the police themselves, the Opposition and, indeed, the community at large are prepared to see the numbers of staff on the books drop by about 10, if that means that the police can still do their job and is acceptable to the police, and if it is acceptable in terms of meeting this Government's requirement of $1.2m, that is far preferable to a 20 per cent cut in the operational budget. The police are not really crippled by losing 2.25 per cent across the board. They would prefer not to - I think most of us would prefer them not to - but, if the bottom line is that that is to happen, so be it, as long as it is fairly applied.

I wish to make a couple of other points. Mr Connolly has made great play of the Grants Commission and of the agreement signed last year by Mr Collaery. I refer him to schedule E, paragraph 4, in relation to the funding base, which reads:

> The Commonwealth gives a commitment to the ACT that special transitional problems encountered in the provision of policing will be taken into account in determining general transitional arrangements for 1991-92 and 1992-93 and the levels of any special revenue assistance.

*(Extension of time granted)* Finally, I refer him to page 27 of the Grants Commission report, which states in relation to police:

> For the first group, we assessed a transitional allowance equal to the per capita difference between standardised and actual expenditure in 1989-90. Police expenditure was the only category treated in this way.

It went on to say that health and medical services, education and parks and wildlife received only three-quarters of the allowance. So, police were treated differently, just as they are in the Northern Territory, and there are good reasons for that. The ACT and the Northern Territory have some problems associated with policing that are unique to them and different from those of any other State, hence the Grants Commission accepting that funding has to be different and that they have to be funded more than the other States.

The Attorney-General has probably learnt a salient lesson at the beginning of his political career, and one that might stand him in good stead in relation to this dispute. He made the wrong decision initially; hopefully, he has seen the light. He is now fairly irrelevant to the debate because the police and their national body seem to be sorting it out themselves. I look forward to seeing the results of tomorrow's deliberations.

**MR COLLAERY** (8.39): I shall confine my remarks to putting on the record some of the procedural steps that the Attorney-General should have gone through carefully prior to the imposition upon him by the Under Treasurer of the Government, who made a similar proposal to me shortly before I left government, of a proposal to consent to a cut in police funding.

Section 8 of the Australian Federal Police Act sets out the functions of the Australian Federal Police. They are to provide, among other things, police services in relation to the ACT. In a new provision, section 8(1A), the Act was amended to allow the Federal Minister and the ACT to enter into arrangements for the provision of police services in the ACT that are in respect of Territory functions. The Act, very unusually, has an enjoinder in it, namely:

> The Minister -

that is, the Federal Minister -

> shall try to enter into the first such arrangement before 1 July 1990.

That is a quite unusual statutory provision. Senator Tate, as the responsible Minister, put every effort into that. There was a long series of careful negotiations between our respective governments, and the agreement was finally signed on 25 July 1990. It was not, as that erroneous *Canberra Times* leader reported, cobbled together. It is a properly drawn instrument, and the *Canberra Times* owes an apology to all the civil servants who worked carefully on that document. They were demeaning words.

The ACT Self-Government (Consequential Provisions) Act 1988 defines Territory functions by referring to the self-government Act. Through section 37 of that Act we follow the path to schedule 4, which refers to, among other matters, to public safety. So, the police have a Territory function for public safety. The governments entered into an arrangement, and members should remember that this is a contractual type of arrangement. This is the sort of legal arrangement you might enter into for the lease of a television set. In this case, we lease police services.

Clause 2 states that the ACT will provide services specified in schedule A to the agreement. When you turn to schedule A, it provides, inter alia, a list of requirements promised to us: The protection of persons and property; crime prevention; the development and maintenance of community participation in the provision of police services; and, most importantly - and stressed by me in the negotiations and accepted by the Commonwealth - the police services are to be responsive to community needs in the provision of police services.

One goes directly to Assistant Commissioner Peter Dawson's letter of 18 September 1991 to the president of the ACT Branch of the Australian Federal Police Association. In that lengthy and detailed correspondence setting out the effects of budget cuts, he made these comments:

> The people of Canberra and its visitors will not be at risk. A 24 hour, 7 day a week coverage will be maintained, though not to the same level at night and weekends as currently exists. Urgent and life or property threatening incidents will still receive urgent and complete attention. Matters that do not fall into the urgent category, although perhaps serious and concerning to the victim, will no longer receive the expected prompt attention to which the people of Canberra have been accustomed. They will, however, know the priority level accorded their report and the time frame in which police will attend.

> I predict a significant and uncomfortable increase in complaints against police for a year or two, despite the consultative and communication processes undertaken to implement and advertise the Priority Response System.

There is a comment by the Assistant Commissioner which clearly engages, as anyone who has taken a contract on board will know, the provision in schedule A of the agreement that the police be responsive to community needs in the provision of police services. Clearly, the assistant commissioner is providing in this letter the evidence that he can no longer be as responsive, or responsive at all in certain categories, as was expected under the contractual agreement we made to use the AFP. We could have used another police force, but we used the AFP. The Dawson letter provides evidence of a clear intended rupture of the provision in schedule A that I have mentioned.

We then move to schedule B of the agreement, again carefully negotiated, and I want the *Canberra Times* and the leaders who contributed to the editorial to digest these words. They will understand the difference between informed and detailed journalism and the type of sententious comment we saw yesterday. Schedule B sets out the goals and objectives that we required of the AFP. They include, inter alia:

> through appropriate response planning to enable a quick and effective response to serious crime;

I accept that Assistant Commissioner Dawson is not referring to the commission of crime. This is preceded by these words:

> by use of the patrol officer as the cornerstone of operational policing;

Clearly, the cornerstone has been removed from policing in this Territory. There is a clear concession about the problem with vehicles and patrols, particularly in the Tuggeranong area. That again is a rupture of the agreement.

We then turn to schedule E, which was mentioned by my colleague Mr Stefaniak. It sets forth the financial basis for the agreement, which was again carefully negotiated between our treasuries. This document was produced by and between the Finance and Treasury officers. There was no mistake about it. It provided:

> The Commonwealth gives a commitment to the ACT that special transitional problems encountered in the provision of policing will be taken into account in determining general transitional arrangements for 1991-92 -

this contradicts utterly what this young Attorney just said to the house -

> and 1992-93 and the levels of any special revenue assistance.

Mr Connolly has again tonight seriously misinformed this house. He said that it gave a guarantee for one year only, and he made light, by inference, as any good lawyer can - we are all used to addressing juries - of an important provision in the Act. I see much in Mr Connolly that perhaps I was 10 years ago. He needs to take a lot more care with his utterances. Madam Temporary Deputy Speaker - - -

**Mrs Grassby**: No, I am not in the chair any more, Bernard.

**MR COLLAERY**: I am sorry. He is better looking than you, Mrs Grassby. I am sorry; you are better looking than he is. It is only my fever; I will put that down to my fever.

Again, putting that third rupture that I have enumerated to the test, in May, shortly before the Government fell, it had to hand the report of the first review. Paragraph 10.1 of that important report said:

> This current review for 31 December 1990 has been limited in its scope, the intention being to conduct a more intensive review of Schedules A, B and C prior to 30 June 1991.

It will be overseen by a steering committee, including Treasury officials and competent public servants. Paragraph 10.2 of the 1990 report states:

> The June 1991 review will have the advantages of:

. a more informed data base on which the ACT Government can make decisions in the ACT budgetary, policy and legislative contexts;

Clearly, this Attorney and his Government pre-empted the June 1991 report which was required. I do not cavil with the former Chief Minister's comment that the police would have to take a cut at some stage. That is what he meant. We all knew that they would have come down off a high, but we specifically and contractually negotiated a staged step-down because the police were entering the self-government phase 18 months to two years after all the other echelons of government had done so. This was deliberately negotiated to ensure that the very event the Follett Government has pushed on the police did not arrive in this year. There has been a breach of the agreement at every step of the way. *(Extension of time granted)*

I am pleased to have the opportunity, after all the nonsense in the newspaper and all the cries of alarm, finally to put sequentially on the record the legal situation as I see it and as I saw it in negotiating the agreement. There have been some quick, nasty little comments about the agreement, particularly one from Mr Moore, who continues to maintain an issue to do with the Grants Commission and levels of funding. In essence, they are all perfectly correct, but the contractual arrangement provided for a staged and orderly withdrawal of funds from the police. It was not staged and orderly. It was knee-jerk; it was sudden; it was wrong.

It breaches schedules A, B and E of the agreement. It breaches schedule A, because the police were supposed to be providing a police force responsive to community needs, and the evidence is there. The community is concerned, particularly residents of Tuggeranong. It breaches schedule B, because the cornerstone of policing was to be the patrol car, and that is clearly breached. It breaches schedule E, because there was a pre-emptive cut to the budget prior to going back to the Federal Government. I draw that to attention, and I trust that this *Hansard* will go to all the people who have been making a lot of theatrical comments all over the place on this issue.

The sheer fact of the matter is that there has been a breach of a contractual arrangement between two governments. It has been abrogated in significant respects, and what is required now, and I say this to the people of the Territory, is that we must negotiate an effective police agreement. This one has been abrogated. Schedules A, B and E have not been observed. Assistant Commissioner Dawson has clearly indicated that he cannot provide support to those indicia for the agreement, and the making of that agreement was premised on those issues.

In support of responsiveness and the cornerstone argument, the police were encouraged to use Frank Small and Associates to do that fantastic review into policing, little of which has ever been done in this country. That great survey, comprising 600 subjects and covering all three ACT police districts, is ongoing. It clearly indicates that there are concerns about neighbourhood crime, particularly housebreaking and the rest. Those perceptions about personal safety were found to be wrong statistically; but the perceptions were in people's minds, and that required community education.

The cut this Government made was upon the discretionary side of the police budget, and that went to the very essence of schedules A, B and E. It was wrong; it was pre-emptive. I do not think the Attorney even read the agreement. He had a perfect answer to his Treasurer.

**Mr Connolly**: I read them all.

**MR COLLAERY**: He is now saying that he read the agreement. I do not know; he should not rush in in that way. If he is saying that he read it and that he read the December 1990 review report, I wonder why he made a decision before he had the June 1991 review report. Clearly, it has caused significant political damage to his career. In many parts of Canberra it has lowered the esteem of self-government. It has not just been a blow to the Follett Government; it has been a blow to the people of the ACT, who expected us to negotiate and sign an agreement which would be kept, in the community interest. Shame on the Follett Government for breaching that agreement.

**MR MOORE** (8.53): Mr Deputy Speaker, it has been very interesting to listen to the various speeches, particularly those from Mr Connolly and Mr Collaery. Mr Collaery, in the latter part of his speech, during the extension of time, indicated that what we need now is to negotiate a new agreement. Perhaps that is true, but it takes me back to two of his major mistakes.

The first was the agreement he negotiated, which was an absolute disaster. It gave away the possibility of the very thing Colin Winchester had advocated and the very thing the editorial in yesterday's newspaper drew attention to - the possibility of a contract police force. That would have left us in a sensible and reasonable negotiating position. It was something Mr Collaery threw away, long before the negotiations had reached anywhere near a sensible stage. One of the first things he did was to say, "Don't worry. We are going to have the Federal Police. They are going to be our police force and we are going to negotiate from that basis". That was the first mistake he made.

The second major mistake he made was when this side of the house moved and backed a motion to have this Assembly establish a committee to look into police force finances and arrangements. It was Mr Collaery who spoke against it and convinced his colleagues that such a thing was inappropriate. The Alliance hung together then and defeated that motion on the floor of the house, against all other members. At that stage there was strong support from Mr Stevenson to look into police finances. It was a most appropriate thing for an Assembly committee to do and something we would have approached with open minds, to make sure that we were in a position to understand and to do our best to convey what we saw as the important issues involved.

What Mr Collaery perhaps is discovering is that it is very easy to negotiate and give money away, to increase funding for the police in the way he did. It is very difficult to take the money away again, and that is what came through in the editorial in yesterday's newspaper. That message more

than anything is the message as far as our police go. A very important comparison can be made between these cuts to our police force and the cuts that were made to the Fire Service. There were very similar cuts to the Fire Service budget, but its overall budget is only $15m - much smaller than for the police.

If we were to follow the argument of the Police Association in relation to the cuts being concentrated in a small sector of their budget, even if we fail to accept that Mr Connolly's position has changed and that he has allowed some move to staffing cuts, we would still be in a situation to compare the reactions of the fire union and the police union. In that context it is appropriate for us to look at yesterday's editorial and see that they have got it right. The police union has simply gone too far.

The assertion in the matter of public importance put by Mr Stevenson that the action taken by the Government to cut funding to the ACT police force is unwise and does not have the support of the people or the police is simply not the case. It would be unwise to leave any sector of the community without a share of the burden of the cuts. If we were to decide that some section of the community could appropriately be exempted, we should be looking at the areas that would provide us with crime prevention, and that is the issue that Mr Collaery prevented going to a committee.

Those areas of crime prevention would start with education and the social issues. That is where we should be concentrating an increase in funding, if we are going to put an increase in funding anywhere. To give credit to the police force, as I have said again and again, they have put more effort than almost any other police force in Australia, as I understand it, into crime prevention. That is a credit to them and it needs to be recognised. The reality is that the Police Association has overstepped the mark on this issue. They have lost credibility with the people of Canberra by their excessive stance on this issue and, when the compromises were offered, by failing to compromise.

More importantly, their comment that the Minister in charge should "butt out" brings me back to the statement Mr Collaery made that we ought to be negotiating a new agreement. If we have a chance to negotiate a new agreement, we should be renegotiating back to the original Colin Winchester idea and looking for a contract police force. The ideal, as far as I am concerned, would be a contract police force arranged with the Australian Federal Police.

We should have been in a negotiating position to have a given term contract. That given term contract could be reconsidered and we would be in the appropriate position of power, the appropriate relationship with any of the police forces that work for us as a parliament. It is a great loss that Mr Collaery was unable to negotiate that; it reflects his lack of negotiating skills. It is an appalling indictment not only of himself but of the Alliance Government.

The unenviable position in which the Labor Government has been put in regard to both this budget and its relations with police has been made much more difficult by the sorts of comments made by Mr Stefaniak, Mr Stevenson and others. You cannot on the one hand say "We have to be tough, we have to have a tough budget", and on the other hand not wear some of the cuts in areas that you happen to think are important. If you are going to take a responsible attitude to this budget, and a responsible attitude has been taken by successive governments in ensuring that we do not have a deficit budget, then it is most important that you also wear some of the flak.

This sort of political grandstanding is going to achieve nothing for anybody, and the Canberra community, contrary to the terms of this matter of public importance, will see right through this rubbish.

**MR DEPUTY SPEAKER**: The time for the discussion has expired.

## SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION - STANDING COMMITTEE
### Reports and Statement

**MRS GRASSBY**: I present reports Nos 16 and 17 of 1991 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. I seek leave to make a brief statement on the reports.

Leave granted.

**MRS GRASSBY**: Report No. 16 was presented out of session on 1 October 1991, pursuant to the committee's resolution of appointment. Report No. 17 details the committee's comments on 19 pieces of subordinate legislation, 14 Bills and four government responses to previous committee reports. I commend the reports to the Assembly.

## AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (NMRB) BILL 1991

Debate resumed from 17 October 1991, on motion by **Ms Follett**:

That this Bill be agreed to in principle.

**MR KAINE** (Leader of the Opposition) (9.03): The Liberal Party in opposition has no objection to this Bill. It is a fairly straightforward machinery Bill. It is quite clear that the Chief Minister has virtually been required by events nationwide to enact this legislation for consistency across the country in ensuring that the amalgamation of the National Mutual Royal Bank and the ANZ Banking Group is covered by appropriate legislation. The purpose of that is to ensure that, so far as the ACT is concerned, the 1,500 account holders with that bank have their interests protected.

As I said, it is essentially a machinery Bill, and seems to go no further, in my view, than is required to achieve its objectives. On that basis, the Liberal Party in opposition has no objection to it.

**MS FOLLETT** (Chief Minister and Treasurer) (9.04), in reply: I thank Mr Kaine for his support of the Bill. It is a straightforward matter and there is little that can be said to add to the debate. As Mr Kaine has pointed out, the beneficiaries are the 1,500 ACT customers of the National Mutual Royal Bank. If this legislation is passed, they will not be put to the inconvenience of having to renegotiate all their banking arrangements.

It is a method of dealing with the bank merger that saves a considerable amount of time and effort for the bank's customers and staff. I therefore commend it to members of the Assembly. I think it is fairly straightforward and fairly self-explanatory.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## NATIONAL CRIME AUTHORITY (TERRITORY PROVISIONS) BILL 1991

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

That this Bill be agreed to in principle.

**MR STEFANIAK** (9.06): As Mr Collaery is not present, I shall speak first. This Bill ensures that the National Crime Authority can operate effectively in the Australian Capital Territory. It complements legislation which I understand is being introduced in other States and, indeed, in the State that surrounds the ACT, New South Wales. These provisions ensure that the National Crime Authority has all relevant powers to enable it to go about its very necessary business in the Territory.

In these days of white collar crime and very serious corporate crime, bodies such as the National Crime Authority are essential for countering the Mr Bigs, for countering possible corruption - corruption in government, corruption in the public service. Accordingly, it is utterly essential that such an authority complement the normal territorial or State authorities, both investigatory and prosecution. Current crime fighting techniques in many respects have not kept up with the sophisticated nature of organised crime. The advent of the National Crime Authority was very welcome; it certainly complements the more conventional law enforcement bodies within the Commonwealth of Australia.

The Liberal Party has no problems with this Bill and welcomes it. We hope that it has a speedy passage through this Assembly. I note that my colleague Mr Collaery is here now. He wants to say a few words because he was actively involved with this Bill. I was going to speak after my learned friend Mr Collaery, but I thank him for the opportunity to go first.

**MR COLLAERY** (9.08): I thank my colleague Mr Stefaniak for holding the fort and I apologise to the house for not taking the call. I am pleased to rise in response to this Bill, which represents the outcome of discussions and negotiations initiated whilst I was Attorney-General. The National Crime Authority has been described as a unique law enforcement body with special investigative powers and a multijurisdictional focus. Its mission statement requires it to "take effective action to reduce the incidence and impact of organised crime in Australia".

I refer members to the text of that mission statement, which is to be found at appendix A of the National Crime Authority's annual report for the year 1989-90. I draw members' attention to the report of the Parliamentary Joint Committee on the National Crime Authority, tabled in the Federal Parliament last year. It observed:

> ... the success or failure of the authority in meeting its objectives is not susceptible to evaluation in quantitative terms.

The parliamentary joint committee went on to observe that the traditional measurement of the effectiveness of law enforcement agencies - for example, their clearance rates, their rates of crime solution, their percentage of reported crimes solved, et cetera - was inapplicable because the authority deals with unreported organised crime. I can recall being told what the estimated turnover of illegal SP bookmakers was, and I am sure Mr Stefaniak does too. But that figure, as we all know, can be only speculative, and in this whole area of organised crime much of the spectrum analysis is speculative.

Before I pass from the PJC's report entitled *An Initial Evaluation* - and I stress that, because it is early days still - I should mention with approval that there is an urgent need for basic research on illegal activity in this country so that public policy decisions on strategies to combat organised crime can be taken at a more informed level. The parliamentary joint committee applauded the efforts in this regard of the Australian Institute of Criminology, as does the Residents Rally.

Recently I wrote to the institute, in response to calls by them for suggested areas of new study, and I suggested that concepts of organised crime require revisiting. For example, is it organised criminality for public officials wilfully to neglect turning their minds to any inquiry into what would be the infrastructure cost to the community of allowing a major development to take place?

Does that activity go beyond mere cupidity when the community is forced to pay for traffic engineering, parking and other services, and suffers as a result of environmental problems of developments that had - I stress this - predictable outcomes? The wilful neglect and failure to pursue these outcomes by public officials, through too close a personal and friendly relationship with developers, in my view is an appropriate area for study and for the National Crime Authority to take on board.

The Australian community - we taxpayers - have contributed so much towards the millions made and lost by some of our greatest entrepreneurs in the foreign borrowing market. Have any officials been wilfully negligent in surveilling those activities? Is that an area for inquiry? In other words, at what level does the reckless indifference of public officials become criminal?

Look at the great cost to this country of what those megaentrepreneurs have done to us and our balance of payments. Who was negligent? Was it more than negligence? Was it wilful neglect because they did not wish to put their minds to an issue, because they were too close to

these people? I include politicians in that category. Are they also in that bag? If they are, in my strong view they should be the subject of proper reviews, and I will come back to that in a moment.

At this juncture, I want to mention specifically the manner in which the authority can conduct itself publicly, pursuant to section 60 of the parent Act, that is, the National Crime Authority Act 1984. I would encourage the authority to use every opportunity, not just in a defensive context such as occurred on 22 March 1990, when the authority faced a pretty tough bunch of South Australians at the Adelaide Town Hall to explain a number of issues that had arisen in that State. I am not going to traverse those concerns again; but the authority gave a glimpse of its operations, and it was not a flattering picture one received of the National Crime Authority at that public meeting on 22 March 1990.

I note, however, that the authority has advertised in the ethnic press, particularly the Chinese press. It advertises its trades, in effect. Of course, that is not widely known to all of us. The authority participates in seminars and public discussion issues, and I believe that it will do more of that under the competent and respectable chairmanship of Mr Justice Phillips, who is the current chair. I was pleased to be consulted as Attorney prior to his appointment, and I can say that his appointment was warmly welcomed by all States and Territories. It was welcomed in the afterlight - perhaps I should say the backlash - of the earlier days of the NCA.

I draw members' attention to the swift move that Mr Justice Phillips made to move the NCA's investigations into money laundering, serious white collar crime and corporate crime. I am pleased personally to see the NCA move away from what I regard as an overfocus on drug-related crime. Like the X-rated porn videos, drug money has well and truly poisoned the waterhole in this country. Much of the money has moved laterally into cleaner, laundered activities, and a respectable class has built itself on these foundations of slime. That is regrettable; but there is not much to achieve now, given the gross failure of policing in the 1960s and 1970s to deal with the issue when it arose. There is very little we can do now about historical oversights of our new respectable class who moved out of slimy laundered money 10 or 15 years ago.

I also believe that there has been an overfocus on ethnic concerns to do with drug-related crime. An issue that was well illustrated in my time, and I feel free to speak about it, was the most unfortunate way, the almost improper way, in which the South Australian Attorney, Chris Sumner, was dealt with during a National Crime Authority investigation into his alleged links with a brothel and with the Italians allegedly concerned. One of the NCA documents I saw

referred to the fact, as if it were significant, that the Attorney-General spoke fluent Italian. I speak fluent French - or I think I do - but does that make me part of a French connection? That shameful episode of the NCA is now over.

I wish to say at this juncture that I spent a good part of my youth dealing with organised criminal activity in this country. I spent years on the activities of Chinese Triad groups. I believe that there was an overfocus on Italian activities in those years and not enough on Australian-Chinese links, particularly those that evolved in this country during and after the Vietnam war . I will not go further into those matters in this speech, but I believe that the new focus of the National Crime Authority should take it to Vanuatu, Hong Kong and seaboard places in continental United States, particularly Atlantic City, where money laundering, organised crime and the activities that surround casinos particularly can be looked at.

The NCA is governed by an intergovernmental committee. I sat on that committee as an observer until the Federal legislation was recently amended. I assure the house that the current chair, Mr Justice Phillips, reports comprehensively to meetings of the IGC. I particularly welcome the chairman's proposals earlier this year for greater cooperation between the NCA and other law enforcement agencies by encouraging the development of joint task forces, including greater sharing of intelligence, and the use of public conferences to elicit advice and support from academia and the public at large.

I believe that Mr Justice Phillips is likely to do away with the partisanship that has tended to encircle the NCA, particularly in its statutory connection with the Bureau of Criminal Intelligence, which is referred to at subclause 6(2) of the Bill before the house. I believe that we need to have full and frank disclosure, not competitiveness, in this circuit. I regret to say that there is still an element of competitiveness within the police commissioners circle to do with the NCA.

Hopefully, those concepts that the NCA was an exclusive club will be broken down. I believe that those concepts started under a former chair, when the police were regarded as corruptible at the highest level in some areas of this country. Fortunately, decisive action has been taken, particularly in Queensland, and I think it is in our interests to encourage the NCA to get more closely involved with those other bodies.

That brings me to section 51 of the parent Act, namely, the secrecy and accountability to parliament provision. I am most concerned about events which arose in Federal Parliament, particularly last year, when the parliamentary joint committee risked involving the NCA as a political football. I was most concerned then about leakage of information from the PJC. It appeared to be from the PJC;

it was apparently from the PJC or in connection therewith. I mean no disrespect to that parliament, but those leakages did occur. That has resulted in something of a backlash, in my view. Subsequently, the National Crime Authority refused to appear and give evidence to the PJC of the other parliament.

It is said that the secrecy provision in section 51 of the parent Act, reflected in clause 29 of the Bill before us tonight, overrode the powers of parliament. I do not agree with that. I am very much of the view that there has been a gross rejection of the ultimate powers of parliament where those matters occur. The immunities given to parliamentarians flow down to us from the Bill of Rights of 1688, and it is clear to me that if someone divulges information to a parliamentary committee that person should not be impeached under clause 29 of this Bill or section 51 in relation to the other parliament.

I believe that appearance before properly controlled bodies is essential to the proper accountability of the NCA. At the moment there are no express words in clause 29 withdrawing the powers of this Assembly. I say to members: Look at clause 29 of the Bill before you. The Federal Attorney-General, supported by his Solicitor-General, Gavan Griffith, gave the view that section 51 overrode the powers of the Federal Parliament.

Clause 29 is similarly drawn, and I warn members that, unless there is a clear exclusion, we could be excluded as an Assembly, in a select committee situation with proper confidential machinery, from knowing what is going on in terms of the structure and the mission statement and other issues to do with the NCA. I am not suggesting at all that a committee should want to look at operational intelligence matters. This works effectively for defence and foreign affairs and ASIO on the hill, and clearly it should work properly here.

It has been argued that the IGC provides sufficient monitoring of the operational work of the NCA. With that I agree; but clearly the people need to have a greater purview of its operations, and I will give an example. It is conceivable that a national political party could become the subject of an NCA operation. Were that to be the case, and if the IGC were composed mostly of members of that national political party, you could have quite a conflict of interest in information available to the committee.

I will have more to say in the detail stage of the Bill; I do not have time to complete my speech. However, I support the views of the eminent Clerk of the Senate, Mr Harry Evans, when he made clear that parliamentary access to the workings of statutory bodies of this nature is paramount and should occur. I foreshadow appropriate amendments to the Bill at the detail stage. I otherwise commend this Bill to the house. Corruption issues were a plank for us

and the reason why we pressed ourselves forward for election before self-government. We remain as concerned now as we were then about lobby-driven development in this Territory and all of the implications it has.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (9.23), in reply: I am pleased to hear what I think is general support in the chamber for this legislation, which is essentially machinery and enabling legislation, mirroring, as I said in my introduction speech, the Northern Territory provisions. It will enable the Australian Capital Territory, should we ever need to, to refer a matter to the National Crime Authority and bring that authority into the Territory.

It is worth members noting when considering this legislation that Tasmania has been a party to the NCA system since day one. It has had this legislation on its books since day one and yet has never had to participate in an NCA reference. So, the mere fact that we establish this machinery provision and allow the Territory, should it need to, to use the NCA does not mean that we are likely to do so this year, next year or the year after. Indeed, the Tasmanian Government, which became a party in the mid-1980s, has never had need to refer a matter to the NCA.

As Mr Collaery pointed out, the NCA has changed its focus in recent years and is now focusing attention primarily on areas of white collar crime, major fraud, corporate fraud, computer fraud - areas where, in the Australian community at least, there is a degree of cynicism about law enforcement.

There is an unfortunate perception in the community that if a person with limited means, a person in receipt of social security benefits, say, should go down to Woolworths and rip off goods to the value of $16 he is likely to find himself in gaol; but if a person rips off $16m or $1,600m through corporate fraud he is likely to end up enjoying his days in the south of France or in Spain, immune from prosecution authorities and living the high life. The community, quite properly, is cynical of law enforcement when there is seen to be a rigorous degree of enforcement against what may be seen as minor crime; yet persons connected with offences that involve breathtaking sums of money are seen to be beyond the reach of the law.

For the reasons Mr Collaery outlined, I think the move Justice Phillips has taken as chair of the NCA, to move more in the direction of pursuing those major white collar offences, has been welcomed generally around Australia. It is only when the Australian law enforcement community can

show to the general community that it is vigorously pursuing these major corporate offences that there will be widespread greater respect for law and order. Nothing is more insidious and more damaging to public confidence in the law than the public perception that major corporate offenders are beyond the reach of the law. That is an area where in the future this Territory may have to use this mechanism, but one would hope that that day is some time off.

In welcoming the general opposition support for this legislation, I should foreshadow that I will be moving two amendments which have been circulated. These amendments merely pick up two minor typographical errors in the original print of the Bill. They were picked up by the Scrutiny of Bills Committee, with its typical eagle eye, in its report No. 15 of 17 September 1991. I will be moving in due course amendments to clauses 3 and 21 to pick up those minor typographical problems. I thank the Assembly for its general support for the principle of the legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

**Detail Stage**

Clauses 1 and 2, by leave, taken together, and agreed to.

Clause 3

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (9.27): I move:

> Page 2, line 15, subclause (1) - definition of "special function", omit "5(4)", substitute "5(5)".

This amendment is intended to pick up the Bills committee recommendation. There is an obvious typographical error that was picked up. The reference in the legislation to subclause 5(4) should be to subclause 5(5), for the reasons set out in the committee's report No. 15. I commend that amendment to the house.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 4 and 5, by leave, taken together, and agreed to.

Clause 6

**MR COLLAERY** (9.28): I move:

Line 26, omit subclause (1), substitute the following subclauses:

"(1) Where in carrying out a special function the Authority obtains evidence of an offence against a law of the Commonwealth or of a State or Territory, being evidence that would be admissible in a prosecution for the offence, the Authority must assembly the evidence and give it to:

(a) the Attorney-General of the Territory, the Commonwealth or the State, as the case requires; or
(b) the relevant law enforcement agency: or
(c) any person or authority (other than a law enforcement agency) who is authorised by or under a law of the Commonwealth or of the State or Territory to prosecute the offence.

"(1A) Where any evidence is obtained of an offence against a law of the Commonwealth or of a State or Territory, being evidence that:

(a) is obtained in the course of investigations co-ordinated by the Authority under paragraph 11(1)(d); and
(b) would be admissible in a prosecution for the offence;

the Authority must do its best to ensure that the evidence is assembled and given to:

(c) the Attorney-General of the Territory, the Commonwealth or the State, as the case requires; or
(d) the relevant law enforcement agency; or
(e) any person or authority (other than a law enforcement agency) who is authorised by or under a law of the Commonwealth or of the State or Territory to prosecute the offence.".

I need to inform the house that the parent Act, the National Crime Authority Act 1984, which I was studying earlier this evening, was amended this year, as I have determined with the assistance of the library this evening, by the Crimes Legislation Amendment Act 1991.

That Act repealed section 12 of the parent Act, which was copied into our Act, and it put in a substitute section. That substitute section was inserted following concerns and discussions of the IGC about the power and right of State governments to be involved in NCA investigations. It appears to me that the Bill before the house is replicating the repealed section of the parent Act when, in fact, it should be using the substituted section from the Crimes Legislation Amendment Act, Act No. 28 of 1991 of the Federal Parliament.

So, my amendment seeks, hurriedly - and I believe that the Attorney needs to seek advice from his counsel on this - - -

Consideration interrupted.

## ADJOURNMENT

**MADAM TEMPORARY DEPUTY SPEAKER** (Mrs Grassby): Order! It being 9.30 pm, I propose the question:

That the Assembly do now adjourn.

**Ms Follett**: I require the question to be put forthwith without debate.

Question resolved in the negative.

## NATIONAL CRIME AUTHORITY (TERRITORY PROVISIONS) BILL 1991
## Detail Stage

Consideration resumed.

**MR COLLAERY**: If members refer to clause 6 of the Bill before the house, I can assure them that they will see that the wording is close to that of the repealed section 12 of the National Crime Authority Act 1984. That section no longer exists. The proper section is worded similarly to the amendment which I have moved and which has been circulated in my name. It gives the role of each Attorney and provides for the right to require more specific assistance than do the more general words you will see in clause 6.

The fact is that my amendment replicates the existing provision in the National Crime Authority Act, as amended, and requires the authority to do its best to ensure that, when the evidence is assembled, it is given to the Attorney-General of the Territory or State involved. That was a shortcoming in the parent Act. The authority was not obliged to present the evidence to the Attorney of the relevant State. There were no proper reportage arrangements.

If you look at clause 6 of the proposed Bill you will see that that is a much weaker provision. It says:

> ... furnish that evidence to the Attorney-General for the Territory, the Commonwealth, or the State (as the case may be) or to the appropriate law enforcement agency.

The Commonwealth Act is much more definite now, and I believe that the Attorney should more properly have moved this amendment - unless there is some good reason why, which I am unable to determine. He should be bringing into law the version of the National Crime Authority Act as it now stands, not the earlier version.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (9.32): Mr Collaery has circulated a very detailed amendment. What he says, prima facie, requires detailed examination, and I have no alternative but to seek an adjournment of the detail stage. Mr Collaery has brought in a detailed amendment without notice. This is the first I have seen of this amendment. This is, I believe, the first that Mr Stefaniak from the Liberal Party has seen of it. There was universal support for the Bill at the in-principle stage. When we get to this sort of detail amendment, we obviously have to take advice.

Mr Collaery, in his speech at the in-principle stage, made some remarks about, I believe, clause 29. Again, if he has concerns about that, or proposed amendments, I am happy, as we did with the guardianship exercise, to provide officers to sit down and go through the detail. We are approaching this in an open-minded manner, but I am in no position this evening either to accept Mr Collaery's amendment or to oppose it.

He is proposing detailed changes to complex legislation which is essentially a national scheme. I want further advice. I want the opportunity to give my advisers' views to Mr Collaery and, equally, the Liberal Opposition and other non-government members have a right to consider this amendment and to seek to raise with the Government whether they should support the amendment or the Government position. So, with reluctance, because I had no notice of this detailed amendment, I am forced, really, to seek to adjourn the detail stage to another day.

**MR COLLAERY** (9.35): I would like to respond to that and make clear to the house that I have not had the opportunity - I am still speaking to this amendment, Madam Temporary Deputy Speaker - to avail myself of the excellent liaison of the Parliamentary Counsel's Office. These matters came to my attention, in research, in the last hour. In fact, I was still procuring this information physically, myself, up in the library - I stand corrected - within the last two hours.

The fact of the matter is that this Assembly will work far better when I can be properly resourced to assist this Assembly to get its business done competently and professionally. The fact of the matter is that, if you want this parliament to work, you resource it. If you pay peanuts, that is what you get. This is happening constantly.

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

That the debate be now adjourned.

**MADAM TEMPORARY DEPUTY SPEAKER**: The question now is: That this debate be adjourned to another day.

**Mr Berry**: Firing from the hip again, Bernard.

**Mr Collaery**: Jump in the lake, jerk.

**Mr Connolly**: I raise a point of order, Madam Temporary Deputy Speaker. There was an interjection directed at the leader of the house, Mr Berry. I did not catch the first part, but it ended with a very bitter "jerk" remark. I would ask Mr Collaery to act in a rather more parliamentary manner.

**MADAM TEMPORARY DEPUTY SPEAKER**: I would ask you, Mr Collaery, to withdraw that, please.

**Mr Collaery**: I will withdraw that, if you ask me, Madam Temporary Deputy Speaker - for you.

**MADAM TEMPORARY DEPUTY SPEAKER**: Thank you, Mr Collaery.

**Mr Berry**: Do not feel hurt on my behalf.

**Mr Collaery**: Well, you are. If the cap fits - - -

**Mr Connolly**: Madam Temporary Deputy Speaker, there was an interjection after he sat down - "Well, you are. If the cap fits". He has withdrawn, properly, on your instructions. He cannot then sit down and interject along those lines.

**MADAM TEMPORARY DEPUTY SPEAKER**: Please, Mr Collaery.

**Mr Collaery**: Madam Temporary Deputy Speaker, I am absolutely astounded to see the Attorney on his feet in utter delight at correcting someone else for once. I will give him that little pleasure and say that when I said, "If the cap fits", I was referring, of course, to my statement that Mr Berry was a jerk. I have already withdrawn that, and I will, of course, withdraw "If the cap fits".

Question resolved in the affirmative.

## CHILDREN'S SERVICES (AMENDMENT) BILL 1991

[COGNATE BILL:

ADOPTION OF CHILDREN (AMENDMENT) BILL 1991]

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

That this Bill be agreed to in principle.

**MADAM TEMPORARY DEPUTY SPEAKER**: Is it the wish of the Assembly to debate this order of the day concurrently with the Adoption of Children (Amendment) Bill 1991? There being no objection, that course will be followed. I remind members that in debating order of the day No. 3 they may also address their remarks to order of the day No. 4.

**MR STEFANIAK** (9.39): Madam Temporary Deputy Speaker, I am glad that my colleague Mr Connolly said that we will do the in-principle stage tonight and the detail stage tomorrow, because a couple of things have cropped up which I would like to check out further. I may be bringing in an additional amendment as a result of that. This particular Bill will be supported by the Liberal Party, as will the procedural Bill in relation to the adoption of children. I really will not direct any remarks to the latter Bill because it is just procedural.

However, I advise the house that we have a number of problems with the way that this particular Act has operated since 1986. I am pleased to see that a number of problems and potential problems are addressed in this Bill. There are a couple of points which the Attorney highlighted in his speech which I would be a little bit concerned about. I will be interested to see how they operate. We will be supporting the Bill. I will be moving four amendments. I will talk about each of them in more detail later, but I mention them in this speech because they exemplify the problems that have been encountered since the Act came in in 1986.

The Act actually replaced the Child Welfare Ordinance, and when this was enacted in 1986 it set up the Office of the Youth Advocate, who is now the Community Advocate. There have been a number of teething problems, shall we say, with the operation of this Act. Indeed, even if this Bill and my four amendments are passed, no doubt there will still be further problems with this piece of legislation in the way it operates in the legal system in the ACT. So, I think the house should be alerted to that and, indeed, further refinements will be needed to make this legislation as effective as everyone hoped it would be in 1986.

In the particular Bill which the Attorney has brought in, a number of very necessary amendments have in fact been made. The Attorney, in his speech, neglected to mention a few points which I will mention because they relate to essential amendments to ensure that the law - the criminal law especially and also the motor traffic law - operates effectively.

Clause 9 amends section 29 of the principal Act by omitting certain subsections and substituting new subsections to ensure that police can in fact conduct investigations and ask questions pursuant to the Motor Traffic (Alcohol and Drugs) Act and treat a 17-year-old who is under the influence of alcohol and over the prescribed concentration of liquor in the same way that they would treat any other driver. There are, by necessity, in relation to this Act, provisions for the treatment of young people that are different from those applying to adults. That is proper, and that has been enshrined in the Children's Court jurisdiction for some time.

But that is not appropriate in terms of traffic offences and drink-driving offences. The young person of 17 who has a licence has had to pass a test like anyone else, and they have to abide by the rules of the road and they are subject to the same questioning as anyone else who has a licence. A licence is not a right; it is a privilege. Accordingly, clause 10 also carries on that principle, and I am pleased to see that amendment there because, again, it covers potentially very serious anomalies and problems with this Act.

Also, I am pleased to see paragraph 47(1)(k) in the principal Act being amended so that six months in detention in a shelter has been increased to a maximum of two years. The Attorney did not highlight it, of course, in his speech. I would not expect the Labor Party to do that. But that is, I believe, to ensure that young people can in fact stay in the Territory if they are incarcerated in a shelter - and the shelter, of course, in this case is Quamby Remand Centre, which is also an institution. I think that also is a very sensible amendment.

The Attorney is checking out something which I would seek to amend, and that is clause 18, in relation to attendance centre orders. In the adult court, community service orders can be given for up to 208 hours, which is, I think, a maximum of 28 days' work. Often the courts, naturally, allow that over a period of about 12 months. Of course, a community service order provides services to the community. It might be mowing lawns; it might be gardening; it might be painting; it might be doing labouring. Often it is assisting old people and the less privileged in our community.

This service is done in lieu of a gaol sentence, and it is done at a stage when a court would otherwise send a person to gaol for the first time. In the ACT such a person would obviously be a previous offender - and often a previous offender on many occasions. It is an effective and sensible way of dealing with certain offences and the adult court can impose a maximum of 208 hours' community service.

This Bill before the Assembly has a similar provision for young people for up to 104 hours. I would like to see the rationale behind that because my understanding was that there were technical difficulties, as much as anything else, in relation to community service orders. There probably is no real justification for young people to be treated any differently from adults in terms of the maximum number of hours because, especially in the case of young people, it is often far more effective to make them realise the error of their ways by getting them to do some useful work to bring it home to them rather than to put them in an institution. It strikes a chord at the right time and it does assist in their rehabilitation.

When we talk about young offenders I think it is important to note that two-thirds of young offenders, after their initial court appearance, do not come back. It is often the remaining third who are a real problem. There are many problems, of course. We have young people who are multiple offenders. There are further problems with this Act in relation to such people which I would seek to highlight and which, indeed, are addressed by some of my proposed amendments to this Bill.

I think those are a couple of positive aspects in relation to this piece of legislation. There are a number of other amendments that the Attorney has highlighted. I note that sections 103 to 105 have still not been gazetted, and that is because of the continuing controversy over compulsory reporting of child abuse. Despite that, and regardless of whether or not those sections should, in fact, be gazetted now, they still can be amended. As a result of very lengthy discussions I had with Mr Mark O'Neill - who is, of course, president of the National Association for the Prevention of Child Abuse, a very learned man in this area, and also a member of the ACT court staff - I have come up with an agreed amendment with him to section 103. I will say more on that later.

I will be interested to see how some of the new provisions of this Bill will, in fact, operate. I think there is always a danger in terms of restricting the number of hours for the authorities to take certain actions. Sometimes it is a balancing act; but I think that what are perceived to be the rights of the child should not be confused with the rights of the community, and there has to be a balance there.

One also has to look at the practical situation. One thing highlighted by the Attorney in his speech, on page 4, was that, under the old provisions, a child who entered a place of safety other than a youth refuge "had to be there for more than 12 hours before the person in charge was required to notify a police officer or the Youth Advocate". The Bill requires this notification to be made as soon as practicable and, in any case, within 12 hours of the child arriving. The idea of this, of course, as the Attorney stated, is to "ensure earlier notification by the Youth Advocate to parents, thus alleviating their concerns over the safety of their children".

Unfortunately, sometimes parents are not capable of being found. Unfortunately, a lot of these children come from broken homes and there simply are no parents who are readily contactable, for whatever reason. I think there might be great practical difficulties in meeting that requirement of "in any case, within 12 hours of the child arriving" in a place of safety.

Certainly, from my experience as both a defence counsel and a prosecutor in the Children's Court, both here and in New South Wales, I can see some problems arising there, because quite often the child effectively does not have any parents, and certainly none that can be contacted easily for that notification. That provision does, sort of, presuppose a normal parental situation at home, which often, unfortunately and tragically, is not the case. In fact, often it may be the reason for a child straying in the first place. So, there are problems there.

There are further problems in relation to this Act and the enforcement of orders under this Act. It is very difficult for a court to enforce any orders under this Act. There is currently a young girl of 15 who is laughing at the ACT system because the Supreme Court cannot enforce an order for a breach of recognisance. She had been involved, I understand - according to some colleagues of mine in the DPP - in an armed robbery, she is currently in New South Wales, and there is simply no way that they can bring her back under this Act to face the Supreme Court for a breach of recognisance. Funnily enough, had she committed an offence which was punishable by the Children's Court - an armed robbery is not - then for that breach of recognisance of a Children's Court order she could be brought back.

There is another anomaly which the Attorney-General and the government law officers might like to look at. It seems ridiculous that, when someone charged with an offence before the Supreme Court is in breach of a recognisance made by the Children's Court, there is nothing that the Supreme Court can do to enforce the breach of that bond. That makes a mockery of the law.

And, of course, it is always the experienced young offenders who would be laughing at the law in this situation. It is not the two-thirds of kids who turn up for one day in court and that is it; you do not see them again. It is the ones who know the system. They are the ones who, after the initial bond or rap over the knuckles with a wet tram ticket, tend to get a fine after a few appearances, even in our courts. But there is nothing one can do, really, to enforce the payment of a fine.

I went to court, in fact, to give evidence in a civil case, as a witness, a month or so ago, and this great anomaly in the Act was brought to my attention by the court staff. Hence my first amendment to ensure that, if a young person does not pay a fine, the situation prior to 1986 - the situation that applies for any adult - will apply, and that is that they will do time in an institution.

The court staff told me - and it is quite right - that before 1986, under the Child Welfare Ordinance, young people who did not pay a fine, when the warrant was issued, either would pay up very quickly or, if they could not, would come back to court and then an arrangement would be made for them to pay it out. Indeed, usually if there were parents there, they would pay up very quickly, rather than have the child go off and do the time out in an institution.

Should anyone here be likely to say, "No, we do not want a Jamie Partlic" - and I think the Attorney mentioned that to me in passing - let me say that Jamie Partlic was put in a very nasty gaol. Young people here, if they did not pay a fine, were put in our institution, which is Quamby. I think some members of the Assembly, those on the Social Policy Committee, have been there. Quamby certainly is not a particularly nasty place for kids to go to. In fact, some of the criticism is that it is a bit like a motel.

I would be quite happy, actually, to book myself in there for a week, for a little bit of a rest. I am quite happy to make that offer, if the Attorney can arrange it. I think I would have a quite good time, and would welcome the rest. I do not know whether I would make the same offer in relation to Long Bay or Goulburn, but I certainly do in relation to Quamby. So, there is no problem there. But the mere fact that the young person's liberty would be taken away for a couple of days to work out the fine has, in the past, invariably been enough, as it is with adults, for the fine to be paid up.

But, at present, there is really nothing that the court can do to enforce a fine. The Clerk of the Children's Court has shown me folders full of unpaid fines, which the court simply is unable to enforce. Looking through section 54 of the principal Act at what convoluted procedures the court

has to go through to enforce a fine, it is little wonder that it is totally cost-prohibitive. It is simply unworkable and utterly crazy. Really, what is the point of fining anyone if it cannot be enforced? It makes a mockery of the whole system.

In respect of the other proposed amendments, I have indicated already that I think community service orders are an ideal way for young people who have offended, and quite often offended seriously, to be shown the error of their ways without being put into an institution. I have highlighted the need for a maximum of 208 hours, giving a court more flexibility, for the more serious offences, than with a maximum of 104 hours. That is something the Attorney might like to talk to his department about, before we do the detail stage.

Another problem relates to section 103 of the principal Act, the mandatory reporting provisions. Mr Mark O'Neill told me, when we came up with this amendment, that, unfortunately, there are a number of child abuse cases which the Youth Advocate is simply sitting on. Really, under the current Act, there is nothing to, I suppose, force the Youth Advocate to pass them on to anyone else. There is no checking procedure, in other words.

Quite often public officials make errors. My proposed amendment in this regard, which has the full blessing of Mark O'Neill, who is an expert in this area, would provide for the Youth Advocate to be made to notify the Commissioner of Police. Both the police and the Community Advocate sit on the committee. Any instances of child abuse would come before that committee, could be discussed there and, if prosecution action is not appropriate, that can be decided by the committee.

However, if the Community Advocate does not bring any instances of child abuse to the committee, obviously nothing can be discussed. So, by making it mandatory for the Youth Advocate to pass on instances of child abuse, many of which could and should be prosecuted, because we are dealing with adults abusing children, we effectively create a checking procedure. This would mean that the chance of something going wrong - some person perhaps escaping prosecution, or perhaps, in some instances, someone being prosecuted when they should not be - can be looked at accordingly. It is a classic case of two heads being better than one, and there are real problems there which the professionals have complained about.

My final proposed amendment, which I will now highlight also, results again from complaints from practitioners and the staff who man the Children's Court and who see the sorry tragedy of kids offending and going through those courts day after day. Many cases of young people going to court might be prevented if the parents just took a little bit more time and care with regard to what their kids did.

There have, indeed, been instances - I have certainly seen quite a few of them and, in fact, I have represented children in such circumstances - where, materially, the kids are certainly well provided for; you could not say that the parents are neglecting them.

There are provisions in this Act for where the parents physically neglect the children; things can be done in such cases. But there are also cases where kids certainly have a roof over their head, clothes and a full stomach, but the parents do absolutely nothing in terms of supervising their children; they basically could not care less. The child runs wild, commits offences and ultimately is punished by a court; but, basically, the parents have been so neglectful that they are culpable as well. In the old Child Welfare Ordinance, there was a section whereby the parents in those circumstances - I admit that it would not be all that common, but there was certainly some provision there - were, in fact, able to be prosecuted for that.

This final amendment would simply bring back that provision which was in the old Child Welfare Ordinance. There are, indeed, a number of things in the old Child Welfare Ordinance which should have been carried on into this new Act and which were not, and I think the problems are coming through now. I would point out to the Attorney, who is smugly smiling and shaking his head - I hope that it is not necessarily at me; it probably is not actually, as he is now shaking his head in a different direction - that these points were brought to me by the professionals in the area; the people who work in the Children's Court, legal practitioners, both at the Legal Aid Office and also in private practice, the Juvenile Aid Bureau of the Australian Federal Police, and Mark O'Neill from the National Association for the Prevention of Child Abuse.

These are amendments which they see as being very necessary for the efficient administration of this Act, which, ultimately, is to benefit the kids concerned themselves. We are not going to help the kids concerned themselves if there are no penalties for their wrongdoing. It is a concerted approach that is needed, including adequate penalties, adequate supervision and, indeed, adequate court procedures to ensure that this Act works.

So, whilst the Liberal Party supports the Attorney's amendment Bill, there are still problems with this Act. I think there still will be after the Bill is passed and even if my amendments are passed, and I have highlighted some of them in this speech.

**MR COLLAERY** (9.59): Mr Speaker, the Children's Services Act was innovative and reformist when it was made law in 1986. Some sections of it, in particular section 103, have not yet been made operative. Section 103 deals with child abuse, and the vexed subject of mandatory reporting. What Mr Stefaniak is attempting to do, I think, is to amend section 103; but I did not quite hear how he is going to get it to become operative.

**Mr Stefaniak**: It has to be gazetted, actually, Bernard.

**MR COLLAERY**: Yes. The fact is that this side of the house does not have the power of gazettal; so I am not quite clear what amending section 103 achieves, and I am unclear as to what is intended there. Mr Stefaniak has a chance to speak again, and I have just flagged those issues.

Coming to the Act itself, children's services legislation travels a fine line between juridical processes involving punishment and retribution and reformist processes attempting to deal with accepting children - including not so small children - for what they are, and attempting to contain their youthful zest and anti-social traits under a regime that is not a prison regime, for example, and under a process that is not part of the punitive juridical processes applied to adults. One has to keep that in mind when one considers this Act and the amendments that Mr Stefaniak seeks to move.

The Bill before the Assembly, I am pleased to say, was basically worked up in my time as Minister, but the issues there have been indicated for a number of years. I was particularly keen to see an official visitor appointed, like the official visitor for Belconnen Remand Centre, to Quamby and other institutions. That is provided for in this Bill in proposed section 19B. The Bill tidies up, and it is a timely conglomerate tidying process to the 1986 legislation. It deals with the power of the Minister to enter into agreements - this would be new section 69B, at page 9 of the Bill - with another State or Territory for the transfer of young offenders.

Members will recall the offer that I made, when Minister, to take young offenders from this surrounding region of New South Wales, rather than see them transported down to Minda, Tamworth and other places, so that they could remain close to their families in Cooma, Batemans Bay, Yass, Queanbeyan and so on - because they are being transported within New South Wales. That process has been short-circuited to some extent because the New South Wales Government has built a correctional institution, not in line with modern precepts I wish to say, at Wagga Wagga. That has, to some extent, taken the pressure off on that issue, although I still believe that children from Queanbeyan would be better placed in our institutions, rather than being sent to Wagga Wagga or other places. And such arrangements could be made pursuant to this proposed new section 69B.

There are other provisions here that we have worked up over time, and much of the reform work that has produced this amending Bill is derived from a whole range of officials involved in corrective services, juvenile justice, the courts and the ACT Government Service proper.

I support the amending Bill, as does the Rally. I do not support the foreshadowed amendment by Mr Stefaniak to commit children who cannot pay a fine to an institution. It was this house, including Mr Stefaniak, that gave support to the UN Convention on the Rights of the Child last year, article 37(b) of which says:

> No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

Mr Stefaniak's proposal meets neither the last resort criterion nor the shortest appropriate period of time criterion because going to gaol in default, in my experience, is usually a direct variable of the sum in issue, subject to some limits. In this case it is not exceeding 40 days.

I am fairly familiar with Quamby. It is near where I live and, over the years when I was a solicitor, I would get called over there occasionally to help out. In fact, the cells there are worse than those at Belconnen. They are unpainted brick rooms in the older section. I am surprised that Mr Stefaniak would be prepared to have a weekend away there; I would not be. We have work to do in that regard. But the overriding thing is that I clearly recall the fact that we had an occupancy rate of 4.5 children per night and 38 staff. And the monstrous cost of keeping a 38-staff shift for four or five children, which probably still persists, would probably mean that the costs of recovering the fine by locking the kids up would be out of all proportion, because of those extra institutionalised costs that we may need.

There are many kids, as Mr Stefaniak rightly says, who are not paying their fines. It is becoming a joke, as he rightly says. The kids walk away and they are getting to know that we cannot enforce their fines. I do not believe that the answer is to lock them up. The answer lies in doing more work to section 57, I think, of the parent Act - Mr Duby has it - which deals with work attendance orders. Work attendance orders are not the exact answer either. Attendance has got down to getting off at the bus stop at the top of Goyder Street, walking across Hindmarsh Drive and attending the re-education classes there. They are well and good; but we should be bringing community service order activity into the juvenile world, subject to certain limits.

The kids should be made to scrub their graffiti off, subject to certain limits. The children should be made to pick up their broken glass. There should be specific orders requiring them to make restitution in a form that does not offend the Convention on the Rights of the Child, that does not demean them or create inhuman processes, and

that does not offend the trade union movement by offending against occupational health and safety regulations. In fact, cleaning graffiti off is probably beyond my proposals because one needs to use fairly sophisticated steam cleaning equipment. Some of the big, muscly young 16-year-olds could do it; but for a lot of the kids it may be beyond them and it may be unsafe.

But, subject to all of those things, the real remedy, Mr Stefaniak, is to do what Mr Jensen has foreshadowed and has given instructions for to parliamentary counsel; that is, to work up further section 57 of the parent Act to provide for the youngsters to do community service work - not just to go to Quamby to attend attendance sessions.

**Mr Duby**: A paintbrush.

**MR COLLAERY**: As Mr Duby correctly interjects, we can put a paintbrush in their hands; they can all do some painting - and we have seen the results of some of their not so artistic work.

So, I do not think we should support this fining proposal. It is olde-worlde; it is punitive; it is not on. I will support my colleague Mr Jensen when he brings up his amendment to widen community service activity. I was present with Mr Jensen when he, in a passing moment, discussed it with the Chief Magistrate, Mr Ron Cahill. I believe that the proposed widening to include CSOs will be supported by the magistracy.

When we come down to section 103 - the unproclaimed section 103 - I cannot see what is to be achieved by leapfrogging the Community Law Reform Committee, to whom I commenced the referral of mandatory notification of child abuse when I was Attorney. I think it is properly with that committee now. We need to make a decision in this Territory; it is going to be a difficult decision. While Mr Stefaniak may be well intentioned, he is really jumping the gun on it. If we are considering requiring the Youth Advocate to refer every case of incest to the police - and we have a police force which, at the moment, has very strict internal guidelines on responding to complaints and not ignoring them - we must remember that we get these complaints in family law matters, regrettably.

In my experience, that is the worst time to get those complaints because the motive is sometimes suspect - they have not been raised before; only when the parties are in dispute - and the police can be left in the middle. Perhaps one party wants a prosecution for reasons exterior to the welfare of the child; another party, for all we know, may or may not be unjustly accused. I do not know whether child abuse is properly always the province of the police. It is a very difficult situation. I applaud the work of Sergeant Fiona Crombie and her officers at the sexual assault unit. They also want to consider carefully, I am sure, mandatory reporting in this context.

I agree with Mr Stefaniak that there may well have been cases in the past where child abuse situations should properly have been reported to the police for proper punishment of the offenders. But, as I said last week when introducing a Bill, not all cases should be prosecuted - in the interests of the child, the parties and so forth. I think this is a bit of a crude attempt to produce this reform. I think we should revisit this matter when we have the report of the Community Law Reform Committee.

**Mr Stefaniak**: We can all go round in circles for a little while longer.

**MR COLLAERY**: Mr Stefaniak has interjected, saying that we are going around in circles. I share his frustration. It is an issue that this community needs to get to. Mandatory reporting at one stage had some very unfortunate consequences in the United Kingdom and, as one of my colleagues in this Assembly mentioned only today, compensation is being paid only just now to those parents. It is an involved issue. It should remain with the Community Law Reform Committee. I do not believe that the Assembly should make that decision tonight in consideration of this Bill.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.11), in reply: I take it from the remarks of Mr Stefaniak and Mr Collaery that there is general support for the principle of the Bill, but there is clearly a series of detailed amendments that Mr Stefaniak intends to move. I think there are fairly clear views on those amendments; but Mr Stefaniak has raised a couple of other detailed points this evening, as has Mr Duby. The Government is prepared, as we have been in the past, to thus adjourn the detail stage so that that can be sorted out.

I have said before, though, that if people have detailed concerns or comments, if they can make them known to me at an early stage, I will provide the officials. I will do what we did with the guardianship legislation; that is, sit people down and we will go through it. And, if there are concerns that are well founded, the Government has shown that it is prepared to accept amendments, and prepared to sponsor amendments. I am reluctant, when what may be valid concerns are raised on the floor of the house, to try to steamroll it through. But I would urge members, if they have a concern, to raise it early so that we can think about it.

On the general principle of the Bill, this is an instance when I am really at one with Mr Collaery on a number of issues. I believe that the amendments that are being moved by Mr Stefaniak are ill-founded. With regard to the amendment for mandatory reporting, this is not a black and white issue, Mr Stefaniak; if it were, we would all be in favour of it. If mandatory reporting would be effective in

stopping child abuse, we would all be behind it; we would have done it years ago. But the experts have differing views. It is a difficult question. We have referred it to the Community Law Reform Committee to air those views throughout the Canberra community, and I think that is a sensible approach.

On the issue of detention - of locking up children who default on fines - it is something that the Government just cannot support. As Mr Collaery said, the UN Convention on the Rights of the Child, which this Assembly has supported, says that detention shall be used as a measure of last resort. When Mr Stefaniak raised this, I had cause to look at the position in all other States. The position in New South Wales is that, yes, detention can occur when all other options have been exhausted - when you have been through community service orders; when you have been back before the court repeatedly. At the end of the day, there can be detention; but there are very special conditions, with appropriate notices and accommodation.

The reason for those very special conditions, of course, is the tragedy in the New South Wales system of young Jamie Partlic, who was, in fact, 18. So, he was not a juvenile in the eyes of the law; he was just an adult. He was a fine defaulter who was sent to Long Bay, he was tragically bashed by a hardened criminal, and now he will never be a fully functioning adult. He is severely disabled through massive head wounds.

In Victoria, only weekend detention is available. In Western Australia, again, detention is available only after all other options have been exhausted. In Queensland, there is no provision for locking up young offenders. In Tasmania, there is no provision to lock up young offenders for fine default, as is the case in Queensland. In the Northern Territory - a jurisdiction which might be seen to be a bit rednecked, being run by the Country-Liberal Party - there is no provision to lock up young offenders for fine default; there are only community service options. And, in South Australia, again, there is locking up only after all other options have been exhausted, including community service orders.

The position in the ACT, essentially, is, again, that it is a last option at the moment. A person who has been in default on fines will go back before the magistrate. There are a range of options, including, potentially, community service orders; and, at the end of the day, detention is there as a last option. That is consistent with the UN Convention on the Rights of the Child, which says that it shall be used only as a measure of last resort. What Mr Stefaniak is proposing to do is to go against the tenor of the UN Convention on the Rights of the Child and against the tenor of practice throughout the rest of Australia, by having locking up as a first option.

I am reminded of the remarkable sensitivity that Mr Stefaniak has shown for community issues. On Hiroshima Day, Mr Stefaniak moved a motion condemning the Labor Government for its enlightened attitude towards getting rid of arms sales and arms bazaars in the ACT. So, he picks Hiroshima Day to say that we should have more arms bazaars. This week is National Children's Week, and Mr Stefaniak is moving to lock up the kids. I am advised that this week is, in fact, also Koala Awareness Week - and I dread to think what Mr Stefaniak has in mind for those poor little koalas.

Question resolved in the affirmative.

Bill agreed to in principle.

**Detail Stage**

Clause 1

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

**POSTPONEMENT OF ORDER OF THE DAY**

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

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

**WILLS (AMENDMENT) BILL 1991**

[COGNATE BILLS:

FORFEITURE BILL 1991
ADMINISTRATION AND PROBATE (AMENDMENT) BILL (NO. 2) 1991]

Debate resumed from 19 September 1991, on motion by **Mr Connolly**:

> That this Bill be agreed to in principle.

**MADAM TEMPORARY DEPUTY SPEAKER**: Is it the wish of the Assembly to debate this order of the day concurrently with order of the day No. 6, Forfeiture Bill 1991, and order of the day No. 7, Administration and Probate (Amendment) Bill (No. 2) 1991? There being no objection, that course will be followed. I remind members that in debating order of the day No. 5 they may also address their remarks to orders of the day Nos 6 and 7.

**MR COLLAERY** (10.18): We are dealing with wills and forfeiture and other matters in this legislation. This legislation, in fact, is historic. It brings our wills legislation into state of the art for Australia, as the Attorney quite properly acknowledged, in effect, in his introductory speech; but one ponders, to some extent, on the situation of the history of will making.

If you look at clause 3 of the Bill - that is, new sections 8, 8A and 8B - you will see that it deals with the age of testamentary capacity. From a historical point of view, Justinian's *Institutes* prescribe the minimum age for making a will at puberty because persons under that age have not the requisite judgment of mind. They fix puberty at 12 years for girls and 14 years for boys.

These rules were adopted by the ecclesiastical lawyers in England. It was only in 1837, with the enactment of the Wills Act, that the minimum age was fixed right up at 21 years. The English Wills Act was adopted in New South Wales by 3 Victoria No. 5, and 21 became and remained the minimum age for making a will in the ACT until the Age of Majority Act 1974, which, we all recall, came into force under Mr Whitlam. This Act made the age of majority 18 years. That is the background to new section 8.

Clause 6 of the Bill deals with the dispensing power. Many examples could be given of wills that have been held void because the testator and/or his solicitor failed, for one reason or another, to comply with the required statutory formalities. Where it is clear that the testator's intention was to make a will, and there is no question of fraud, the court should be able to uphold a will in spite of the fact that the formalities have not been complied with.

One example which happens from time to time is that two testators, usually husband and wife, accidentally sign each other's wills. As a practising solicitor, I can certainly tell you how easy it is to hand the wrong will to a married couple. I have done it on occasion and have realised it, fortunately on the spot, and have had to have another one run off the machine. So, there are two examples of that, and one can see those elsewhere.

Clause 8 of the Bill deals with rectification. In Collins v. Elstone, reported in 1893, an elderly testator had a will. She decided to make a small addition to it. She purchased a will form and filled it in accordingly, so that it dealt with only a portion of her estate. The will form contained a printed revocation clause.

She got the help and advice of a layman. She wanted to delete the revocation clause, but he told her that it was an oddity of the law of wills that a will was not valid unless it contained a revocation clause and that the revocation clause did not mean that the earlier will would

be revoked. She then agreed to leave the revocation clause there. On her death the court held that her will had been revoked. The court regretted that it was forced to a conclusion that would not carry out her obvious intentions.

Clearly, new section 12A will enable the ACT Supreme Court to rectify such a will. If the court is satisfied that the probate copy of the will of a testator is so worded that it fails to carry out his or her intentions, it may order that the will be rectified to carry out the testator's intentions.

A frivolous example of a situation where the true intention of a testator could probably be established and given effect to is as follows:

> I direct that in the event of my death my body be cremated and the ashes strewn on position X, garden lot B in Springvale Crematorium. I further direct my trustee to place on the said position a suitable plague.

The testator's intention would be clear. He did not intend to revisit himself with the plague. Clearly, the court should be able to hold that he meant "plaque". We are dealing with something where the words are taken very seriously and literally.

Subsection (2) of the same section, 12A, is, we believe, new to the common law. Continental European systems have a power like that given in this subsection. It allows the ACT Supreme Court to rectify a will to give effect to the probable intention of the testator when circumstances arise which the testator did not know of, anticipate or appreciate, or which arose after his or her death. Sometimes a court can be morally sure of what a testator wanted to do, but owing to changed circumstances the will does not give effect to those intentions. Under the existing law of construction of wills, the courts are often unable to come to a satisfactory conclusion and the plans of the testator are shipwrecked.

One example will suffice. In Davis v. Worthington, reported in 1978, a testatrix left a gift to "my friend, Aldo Pace", and if he failed to survive her for 14 days, to the Muscular Dystrophy Research Association. But, in fact, Aldo murdered the testatrix and so could not inherit from her because of the rule of public policy which prevents a murderer from inheriting from his or her victim.

But what about the Muscular Dystrophy Research Association? Do they miss out too because the donor got murdered? Well, they were to inherit only if Aldo had failed to survive the testatrix. He had survived her by more than 14 days. It is plain to a reasonable observer that the testatrix would have wanted the Muscular Dystrophy Research Association to inherit in the circumstances, but the Western Australian Supreme Court held that the gift to the association failed.

In effect, the court defeated the intention of this good, murdered woman. Now, were that to happen, God forbid, in this Territory, her intention will not be defeated. All this is pretty exciting stuff to lawyers.

I turn now to new section 12B, in clause 8. There are many cases where injustice has been done because the courts construing wills - - -

**Mr Berry**: There is only one lawyer I see excited about it.

**MR COLLAERY**: I warned Mr Berry - through you, Madam Temporary Deputy Speaker - that we were going to be a while on this, but he wanted to plough on. There are many cases where injustice has been done because the courts construing wills have been prevented by the rules that bind a court of construction from looking at facts which would tell the court precisely what the testator meant.

An example is a much publicised case, that all law students recall, Re Hodgson, 1936. In that case a nurse left all her "money" to a named beneficiary. When she died she had in her case by the side of her bed some 800 pounds in cash and 600 pounds in savings certificates. The court was bound by a rule that money does not include savings certificates. She had therefore failed to give her savings certificates, and, instead of going to the named beneficiary, they went to the Crown, probably bona vacantia - I am not clear on that. So, the court did not admit statements that she had made. The new section 12B will allow the Supreme Court to look at the circumstances and anything the testatrix might have said to decide what she meant.

I do not know whether the Attorney has been introduced to the Pearson estate yet.

**Mr Connolly**: I know all about that one.

**MR COLLAERY**: The Pearson estate includes a bona vacantia in this Territory of $1m. Mr Pearson, from Deakin, died without a will; but he had written a letter saying to whom he would like the money to go, in effect, and there was the extrinsic evidence of those who had cared for him. He took his life in the bath and left us all at sea. In effect, the Treasury at the moment has the $1m. Were the law as it will be shortly, Mr Pearson might recover his intention ex post facto.

Clause 10, new section 15, provides for a will to be attested by a beneficiary or a spouse of a beneficiary. The intention of many testators has been frustrated by the nineteenth century rule that a witness to a will and the spouse of a witness to the will are prohibited from taking a benefit under that will. The South Australian version of the rule was abolished in 1975 and it is high time that it was abolished here.

One example of the bad operation of the rule will suffice. In Watts v. the Public Trustee for Western Australia, 1980, the Public Trustee had prepared a will, sent it to the testatrix for signature and asked for its return. On its return to him, having been executed, the Public Trustee failed to observe that the surname of a witness, whose occupation was given as "housewife", was the same as the name of the residuary beneficiary.

In fact, the witness was the wife of the beneficiary. The rule applied and the beneficiary could not take. What followed was a negligence suit against the Public Trustee, which the disappointed beneficiary won. At the same time, someone else took a windfall which the testator had not intended because the residue went elsewhere.

It is very easy as a solicitor, when you have a group in your office and you are not aware of all the family linkages, to put a witness to a signature in a situation where, if all the others died in a bus accident or a plane crash, that witness - a distant relative at the time of the making of the will - could suddenly find himself a beneficiary but disbarred because he happened to be decent enough to witness the will. Section 15 will fix that up.

Now we come to the Forfeiture Bill. There is a basic rule of public policy that a person cannot inherit from a person whom he or she has murdered. The common law is not clear, however, on how far the rule applies to a person who has killed another by way of manslaughter. The English and New South Wales cases diverge, and the New South Wales cases are themselves not consistent. There are some hard cases.

In Public Trustee v. Evans, 1985, the deceased had assaulted his six-year-old daughter in the matrimonial home. He then assaulted his wife, dragged her into a shed in their garden and told her to stay there. He went back to the house, loaded a gun, and placed it on the kitchen table. His wife returned from the shed. He threw a bottle and cutlery at her. She picked up the gun. He advanced on her. She shot him. He died. Mr Justice Young had a great amount of difficulty deciding that the wife could inherit from her husband.

In the ACT it is not clear that she would be able to inherit from her deceased husband, although the circumstances arouse sympathy for her. The Forfeiture Bill now here, and connected to our Bill tonight, will enable the Supreme Court to consider the circumstances of such a case as this and, if it is satisfied that the justice of the case requires the rule to be modified, to allow the wife to inherit.

Mr Speaker, there have been some humorous wills in time. One was left by the German poet Heinrich Heine. He left a will giving his wife all his assets, with one condition - that she remarry, "Because", he says in his will, "then

there will be at least one man to regret my death". There have been other amusing wills, and those of us in practice can never get over the types of will we are asked to draw. I am not saying, because I do not want to get into trouble with the Law Society, what I have put into wills.

One of the most reliable indicators sometimes is when a sister is reading a will to a beneficiary and, in effect, the beneficiary has left the money to X and all of his books and writings, worthless and trivial though they be, to Y, who has really been the ultimate friend, a good friend. That is the will we call, "He left his money to Royal Canberra Hospital and his brains to you". Sometimes you see great disappointment on a face when they realise that they have been left only a memory and not some money.

There have been other interesting wills. One of the more interesting wills that has been dug up is a will made in New South Wales which contained the following provision:

> I also direct that my executors pay to my husband 10 shillings on the morning of my funeral and that the funeral cortege shall halt outside any hotel to be selected by my executors en route to the cemetery while my husband expends the said 10 shillings buying drinks for his companions - leaving me for dead outside just as he did so often during my lifetime.

I could go on. I do not wish to trivialise the debate at all, but there is another classic will that was proven in Philadelphia in 1913. It was a will made by Maggie Nothe and it got mixed up in the kitchen with other things she was doing. Under the heading "Chili Sauce Without Working" the following appears:

> 4 quarts of ripe tomatoes, 4 small onions, 4 green peppers ... 2 ounces cloves ... Chop tomatoes, onions and peppers fine, add the rest mixed together and bottle cold. Measure tomatoes when peeled. In case I die before my husband I leave everything to him.

**MR STEFANIAK** (10.34): I cannot really match that. Given Mr Connolly's earlier comments and that tomorrow is World Koala Day, or Koala Awareness Day, all I can think of is perhaps putting up an MPI that we bulldoze some national forest which is their habitat, if that will keep you happy. In reply to the comments by Mr Collaery and Mr Connolly in relation to my proposed amendments, I want to say that basically they do not know what they are talking about and they should get out in the real world.

I will address my comments now to these three Bills - the Wills (Amendment) Bill, the Forfeiture Bill and the Administration and Probate (Amendment) Bill. I will be brief in relation to those. I appreciated Mr Collaery's quite humorous stories in relation to some of the things people put in wills. I could probably tell a few stories along similar lines, but I will not.

These Bills are sensible pieces of legislation which emanate from Justice Kelly's committee. That committee has provided a very good service, I think, to the ACT in the time it has been operating. The Wills (Amendment) Bill, especially, simplifies the process of interpretation of wills. It has some good provisions in relation to the way courts will, by statute, interpret wills so that the testator's intention is given full effect.

Indeed, various extraneous items can, in fact, as a result of these amendments, be used to help interpret wills. Those are very sensible amendments which will assist even further in giving effect to the testator's real intention, which is basically what will making is all about.

I am glad to say that our court here now has streamlined its procedures in relation to administering probate and looking at wills. Some 20 or 30 years ago it was very strict in terms of what words you actually had to have in a will. If anything was missing, if any technical point was missing, the will might be invalid. Then the beneficiaries and the executors would be forced to go through testators family maintenance, which was an artificial way used where people died intestate. It has been simplified over the years, certainly since the end of the war.

In the ACT these further amendments make it that much simpler. That is obviously for the good of all, because it was needlessly complex in the past. I certainly commend these Bills to the Assembly, and the Liberal Party naturally supports them.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.36), in reply: I am very pleased to hear general support in the Assembly for these reforms. I will not try to top Mr Collaery's extremely amusing and erudite remarks about the history of will making, and the sometimes bizarre consequences that can occur when simple typographical errors that solicitors or testators make conspire to thwart clear intentions.

The reforms that are proposed in these three Bills are, to some extent, technical black-letter law reforms of interest only to lawyers. I do not know whether they are necessarily exciting. I noticed that the faces of some lawyers present in the chamber were not exactly showing great excitement during the debate. They are, nonetheless, significant; in particular, I think, the forfeiture rule.

There have been enormous injustices where, in circumstances like those described by Mr Collaery, a person who clearly has been a victim of enormous long-term domestic violence, has picked up a rifle that was aimed originally at them, taken a life, been convicted of manslaughter, and effectively lost the matrimonial home. That, clearly, is unjust, and this is, to that extent, a very significant reform.

The proposals for simplifying informal wills have their genesis, essentially, in work done by the Law Society in this Territory, in particular, the work of Charles Rowland from the ANU. I made reference to that in the introductory remarks. After the Bill was tabled Mr Rowland did have some concerns about the appropriate standard of proof to be employed in this. As a result of his concerns, which were conveyed to me, to the Law Office and to Mr Collaery, we had cause to look very carefully at the law and learning on this subject in other States that have moved towards informal wills. On balance, we thought that we had got it right the first time around and that his concerns were perhaps not accurate.

There was considerable discussion between Mr Bailey of the Law Office and Mr Rowland. At the end of the day, I am pleased to say, Mr Rowland took the view that his concerns were perhaps not well founded and that the Bill, as originally proposed, and proposed by him in that work that was done for the Law Society some years ago, was, in fact, the best fit for the circumstances of the Territory.

In particular, I think he had concern, as did the Government, that it was inappropriate to adopt a different standard of proof here for informal wills from that applying in New South Wales because of the obvious cross-border flow of testators. It is very common for a person domiciled in the Territory during their working life to move down to the coast, and vice versa. The profession also has a fair degree of exchange between here and New South Wales. We thought it was best to keep to the New South Wales standard of proof for informal wills and, at the end of the day, Mr Rowland agreed with that. Therefore, some amendments which Mr Collaery had foreshadowed earlier on have not been passed this evening.

Mr Speaker, these reforms, though technical black-letter law and thus mostly of interest to lawyers, do make a significant change in the law. They do make it easier for the citizens to express their wishes as to what should occur to their estate after their death, and it makes it easier for those wishes to be implemented. It means that citizens will not be frustrated by the technicality of the law, which is the most common complaint and criticism about black-letter law. These three Bills make the law simpler and more accessible, and therefore more just and in keeping with the principles of social justice which my party is proud to espouse. I commend the Bills to the house. I am grateful for the general support they have received and I wish them a speedy passage.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## FORFEITURE BILL 1991

Consideration resumed from 19 September 1991, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## ADMINISTRATION AND PROBATE (AMENDMENT) BILL (NO. 2) 1991

Consideration resumed from 19 September 1991, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## ROYAL CANBERRA HOSPITAL BILL 1991
### Speaker's Ruling

**MR SPEAKER**: Members may recall that on 11 September 1991 Mr Moore introduced the Royal Canberra Hospital Bill 1991. I informed the Assembly that, in accordance with the previous practice, I would allow the Bill to be introduced but would subsequently examine it to see whether it conforms with the standing orders.

Mr Moore's Bill is essentially the same as a Bill introduced by Ms Follett in June last year in that it seeks to retain the Royal Canberra Hospital. Standing order 200 provides:

> An enactment, vote, resolution or question, the object or effect of which is to dispose of or charge any public money of the Territory shall not be proposed in the Assembly except by a Minister. Money proposals may be introduced by a Minister without notice.

Having considered the matter, I have concluded that the Bill does contravene standing order 200 as its effect would be to dispose of or charge the public money of the Territory. I therefore call on the Deputy Chief Minister to move the appropriate motion under standing order 170.

**MR BERRY** (Deputy Chief Minister) (10.43): I intend to indicate to the Assembly that I will not be moving such a motion because of the very clear position that the Labor Party has taken in relation to this type of legislation. We intend to stand by our principles on that matter. We will be consistent with our view on that score.

I suggest, Mr Speaker, that Mr Collaery might have a position in relation to the matter. One wonders whether he might be consistent with his behaviour on the matter in the past.

**MR SPEAKER**: Is there any other member who wishes to move that motion?

**Mr Moore**: I take a point of order, Mr Speaker. **Y**ou may recall the time that I introduced that Bill. The initial move I made was for the suspension of standing order 200 to allow me to introduce that Bill. That was the methodology I used at the time. At that time members indicated that they would prefer that I table the Bill and allow you to follow the normal procedure. I see clearly now that the original methodology I adopted was a far better way to deal with the issue.

At the same time, I appreciate the stance that Mr Berry has taken. The Labor Party clearly argued against this use of the standing order when they were in Opposition. I would urge members not to have this Bill withdrawn and not to move under standing order 170.

**Mr Duby**: What are you going to do?

**Mr Moore**: I am not going to do anything.

**Mr Berry**: He is not going to do anything. We are going to wait and see whether one of you members stand by what - - -

**MR SPEAKER**: Order! It is apparent that there is no mover for that motion.

**Mr Berry**: Come on, Bernard. Do what you did before.

**MR SPEAKER**: Order, Mr Berry, please!

**Mr Berry**: Come on.

**MR SPEAKER**: Mr Berry, order!

After seeking the guidance of the assembled members and no-one wishing to move under standing order 170, I must abide by the direction given to me by the Assembly on this matter, as indicated from the floor, and override standing orders. In that case, the matter will be placed back on the notice paper.

## ADJOURNMENT

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

That the Assembly do now adjourn.

### Australian National College of Business and English

**MR MOORE** (10.46): Mr Speaker, I wish to address the matter of the Australian National College of Business and English. The recent troubles of the Australian National College of Business and English reveal a deeper problem than has currently been made public. It is a problem that must be brought into the public arena if the genuine students, the staff, and clients of all Australian colleges which provide education services to overseas students are to be protected.

The overseas education industry is a critical part of Canberra's future. Projections of potential income for this Territory, and indeed Australia, range widely, but will have a considerable impact on our economy, employment and, in fact, our balance of payments.

The difficulties of the Australian National College of Business and English have developed since the April sale of the college to Woods Colleges Worldwide, of which one of the directors is John Griffiths. Another of the principal players is a Mr Noel Ling. Mr Ling was involved with two similar colleges which closed down in Melbourne last month. One of them was Swanston College, which was suspended for keeping rolls inappropriately. The reasons for inappropriate rolls will become clear in a few minutes.

The attraction of the Australian National College of Business and English is the tertiary accredited A courses. When students enrol in one of these courses they are entitled to bring their spouse and dependent children from the country of origin on a two-year visa. Many of the students who arrive on this program are genuinely interested in the advantages of education in Australia, and the program needs protection for these people. It needs protection from shonky operators, and from ghost students who abuse the system to come to Australia to work for the two years. Protection is required if the industry is to be maintained as aboveboard.

Ghost students have been enrolling in courses, primarily the tertiary accredited A courses at the Australian National College of Business and English, through the Woods Sydney office. They never appear on the rolls in Canberra. The scam is that the students pay in the order of $5,000 for a two-year opportunity to work in Australia, with the excuse that they are undertaking a tertiary accredited A course. The fee allows for a spouse to work as well. For having these ghost students on the books, Woods Colleges Worldwide makes $10,000 over a two-year period per student for not much more than a book entry.

In the meantime, the reputation of Australia's overseas education industry is put at risk. With unemployment levels over 10 per cent, they are bringing in foreign workers to take Australian jobs. While this is not acceptable, most reasonable people recognise the appropriateness of the current system which provides for up to 20 hours work for genuine students to allow them to service the two years of their course. The tertiary accredited A courses are valuable. There is a very time consuming and vigorous process required for such accreditation. The size of the scam is the question, and it is the question which must be investigated now, while the Australian overseas education industry heads on a rapid slide into decline.

With this background, it is appropriate for members of the Assembly to be concerned about what happens when colleges such as the Australian National College of Business and English close. What happens to the students who have come to Australia in good faith? What happens to a growing education industry if we allow this industry to be a front for an immigration or work visa scam?

Question resolved in the affirmative.

**Assembly adjourned at 10.50 pm**